

A Relational Theory of Fair Trade

Does Trade Integration Expand the Scope of Distributive Concern?

A Dissertation

Presented to the Faculty of the Graduate School

of Cornell University

In Partial Fulfillment of the Requirements for the Degree of

Doctor of Philosophy

by

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January 2013

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Proponents of globalisation often have difficulty comprehending moral concerns about trade integration. After all, trade is essential to economic development, and what could be objectionable about voluntary and mutually beneficial exchange? Yet this perspective is blind to the possibility that we owe the disadvantaged abroad more than the market requires us to pay. Indeed, perhaps we owe more *because* of trade integration? To date, scholars have defended this claim merely by positing that a trade-integrated world is a “cooperative venture for mutual advantage” (the arrangement in which Rawls believed there should be an egalitarian distribution). In contrast, I seek to assess this claim by utilising an original and more rigorous methodology. To establish the basis and shape of cross-border duties of a distributive kind without extraneous factors skewing moral judgement, I reflect on a series of hypothetical worlds. As a baseline, I first consider a world of economically autarkic societies. I then introduce a discrete trade-relation in each subsequent chapter: first, private exchange, then the state capacity to affect a commercial policy, followed by bilateral bargaining between states, before finally, coordinated and multilateral bargaining, as in the World Trade Organization. I argue that while there would only be a limited obligation to assist persons falling below an absolute poverty

threshold in a world of autarkies, in a trade-integrated world there are additional duties. Private exchange grounds an obligation to equitably distribute the gains of trade—on pain of exploitation—and there is reason to believe that the market price does not reflect an equitable distribution. The capacity to affect a commercial policy implicates even non-trade-participants in exploitation in their role as citizens—given the impact that trade policy might have on the terms of trade—and obligates them not to wrongfully disadvantage dependent foreigners via a change in trade policy. Finally, the capacity to bargain grounds an obligation not to utilise trade sanctions to blackmail, not to induce other states to violate their duties to dependents, and to equitably distribute the gains of trade agreements across signatory societies. Indeed, when concessions are legally enforced, relatively disadvantaged societies may require a greater share of gains than would otherwise be the case, in order that trust between parties to agreements might be maintained and equal status secured.

Biographical Sketch

Simon Cotton has a PhD in Government from Cornell University, an MA with Distinction in International Relations from the Australian National University, and a BA in Modern History and Economics from the University of Oxford, where he was a Domus Scholar at Pembroke College. From Fall 2012, he will be a Postdoctoral Research Associate in Values and Public Policy at Princeton University.

Acknowledgements

This dissertation would not have been possible without the advice, guidance, and support of a large number of people. In particular, thanks is owed to each member of my dissertation committee—Richard Miller, Isaac Kramnick, Burke Hendrix, Chris Way, and Robert Hockett—and to my external reader, Anna-Marie Smith. I owe a particular debt to Richard Miller, who not only chaired the committee and acted as primary supervisor, but introduced me both to the global justice debate and relationally sensitive ways of thinking about political theory in the first place. Special thanks are also owed to Isaac Kramnick, who first lured me to political theory from international relations, and to Burke Hendrix, who showed me that political scientists might still have useful and non-dogmatic things to say about pressing matters of public policy concern. For feedback along the way, I am further grateful to participants at the following conferences: the University of Manchester’s Brave New World conference, 2009, the Society for Applied Philosophy annual conference, 2009, the Midwest Political Science Association annual meeting, 2010, the Annual Conference on Democracy and Governance at the University of Connecticut, 2011, the New England Political Science Association annual conference, 2011, the Canadian Political Science Association annual conference, 2011, and the Western Political Science Association annual meeting, 2012. For funding I am indebted to the Cornell Graduate School, the Society for Applied Philosophy, and Cornell’s Robert S. Hatfield Award for Ethics in Business.

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Introduction

What sort of theory?

This dissertation is an attempt to develop and defend a *theory of fair trade*. But this requires elaboration. The theory I develop is a normative one. My aim is to develop and defend a certain moral ideal—a conception of fairness of and in trade—towards which we ought (morally speaking) to aspire. I have nothing *special* to say about what empirical conditions would need to pertain in order for this ideal to be realised in practice, nor why such conditions would be causally necessary for the realisation of this ideal. This puts my project somewhat at odds with much literature on fair trade and trade relations, which assumes a moral ideal and discusses how that ideal might be attained. A good example is Stiglitz and Charlton’s valuable *Fair Trade for All*.¹ Although Stiglitz and Charlton arrive at prescriptions (for, most importantly, movers-and-shakers within the World Trade Organization) they arrive at these prescriptions via an analysis of what best promotes the goal they take as given. This is exemplified by their subtitle: *How Trade Can Promote Development*. Even to the extent that I would advocate the same policy prescriptions as Stiglitz and Charlton do, my project is different. I want to know what the ideal is towards which we ought to aspire. It is this ideal, after all, that ultimately justifies the policy prescriptions that one might make, either on the basis that these prescriptions promote the ideal (as Stiglitz and Charlton take it) and/or on the grounds that they are otherwise required by it.

Somewhat surprisingly—given the visibility of the fair trade social movement and the degree of passion invoked in debate over the World Trade Organization (WTO)—there was no single philosophical work devoted exclusively to developing such an ideal until very recently. (Aaron James’s *Fairness in Practice: A Social Contract for the Global Economy*, published

¹ Stiglitz and Charlton (2005).

earlier this year, perhaps represents the first such work.²) Indeed, in developing my fair trade ideal I seek to close a gap that was left by John Rawls in *The Law of Peoples*. In this work, Rawls articulates a vision of global ethics in which claims concerning the justice of *relative* inequalities (either between members of different societies or societies themselves) are not truth-apt. According to Rawls, to claim that a relative inequality of this kind is unjust is a category error. Relative inequality is only problematic morally when it arises as a consequence of the violation of the prohibitions on interference that Rawls believes representatives of peoples would agree to behind a veil of ignorance,³ or when it is attended by absolute impoverishment so dire that it is impossible for the society experiencing it to maintain a minimally just political order domestically.⁴ To have less than an equally talented and motivated member of a different society might appear unfair—particularly to the person who dissents from the way her society is politically ordered—but is never unjust in and of itself.

In arriving at this vision, however, Rawls left to be specified those principles that representatives of peoples would choose (again, behind a veil of ignorance) to ensure fairness in cross-border trade and interstate treaty. Having outlined a list of “familiar and traditional principles of justice among free and democratic peoples”—including that “peoples are to observe a duty of non-intervention” and “peoples are to observe treaties and undertakings”—Rawls notes

² See James (2012). Hassoun (2012) might also qualify, although it is broader in scope. There is also legal scholar Frank Garcia’s (2003) valuable *Trade, Inequality, and Justice: Toward a Liberal Theory of Just Trade*, although this is primarily committed to defending the idea that we should think of trade law as being governed by justice, and arguing (from the premise that Rawls’s difference principle ought to be implemented *globally*) for particular measures under special and differential treatment, rather than developing a conception of trade justice as such. Among other work by non-philosophers, there is also social scientist Ethan Kapstein’s (2006) *Economic Justice in an Unfair World*. His position is similar to Garcia’s, although his recommendations proceed from the premise that representatives of *peoples* deliberating behind a veil of ignorance could not accept the current distribution of national income gains between *countries*.

³ Rawls (1999b, p. 37).

⁴ Rawls (1999b, pp. 105–113).

that “this statement of principles is, admittedly, incomplete”. Amongst other things, there is a need for “standards of fairness in trade and other cooperative institutions”.⁵

From his very brief remarks on these matters, it is unclear what he envisages such standards might look like. However, he does mention two considerations that my project might be thought to build on. First, he mentions that a “free competitive-market trading scheme” must be “suitably regulated by a fair background framework”, as in the absence of such a framework, “market transactions will not remain fair, and unjustified inequalities among peoples will gradually develop”.⁶ To the extent that the ideal I offer is one that does not require trade-participants to address each and every unfair inequality that might exist, but does not permit such inequalities to wrongly skew trade and treaty returns, I elaborate on this thought. Second, Rawls specifies that when acting according to the right standard of fairness in trade and cooperation, “wealthier economics will not attempt to monopolize the market, or conspire to form a cartel, or to act as an oligopoly”.⁷ To the extent that I consider the moral implications of market power—both on the part of particular states and groups of states, and with respect to the terms on which trade agreements are concluded as well as the prices of international trades—my own project integrates this insight.

The Law of Peoples is often criticised on the basis that the account of economic justice contained therein is insufficiently generous to the poor and unfortunate. Rather than requiring equality of fair opportunity and the difference principle to regulate the economic distribution—as in the domestic sphere—Rawls offers the more limited duty of assistance.⁸ This duty applies to redistribution between societies, rather than individuals (so an individual might be worse off than

⁵ Rawls (1999b, pp. 37–38).

⁶ Rawls (1999b, p. 42).

⁷ Rawls (1999b, p. 43).

⁸ For the view that Rawls’s vision of domestic economic justice ought to be applied globally, see Beitz (1979), Pogge (1989), and Moellendorf (2002).

a comparable foreigner in an equally wealthy society purely as an accident of luck, but be owed nothing). And only requires action if a society is *so* poor that it is unable to achieve *domestic* justice (unlucky inequalities between *societies* are otherwise tolerable).⁹ Yet it is worth noting that Rawls foresaw the possibility that his principle of assistance would need to be amended once a full standard for fairness in trade and cooperation had been specified. Having offered the brief comments on such a standard quoted above, he goes on to note that “should these cooperative organizations [those ideally charged with embodying and enforcing such a standard] have unjustified distributed effects between peoples, these would have to be corrected, and taken into account by the duty of assistance...”.¹⁰ The fair trade ideal that I offer in this dissertation is fully in accord with this thought. While Rawls’s account of international economic justice would be adequate for a world that was not trade-integrated, or so I will argue in the next chapter, in our own world there are duties beyond assistance to alleviate absolute need grounded on cross-border exchange and international treaty.

The normative ideal I offer in this dissertation is a comprehensive one, in the sense that the moral theory developed is not one in which only the value of *fairness* features. The question I ask, in other words, is not merely the following: assuming fairness (either substantive or procedural) was the only thing of value, what would an ethically trade integrated world look like? Indeed, the implication of my argument is that there are some contexts in which an inequality might be unfair without any corresponding duty to address that unfairness arising. It just turns out that substantive fairness—equitable division of the gains of trade and treaty—emerges as a particular concern given the method I employ (discussed under “Method” below).

⁹ The view that justice requires the neutralization of brute luck (although not option luck—chosen risk) has been termed, by Elizabeth Anderson (1999), “luck egalitarianism”. For Luck egalitarianism see, for example, Dworkin (2000), Arneson (2004), and Cohen (2008).

¹⁰ Rawls (1999b, p.43).

But I could just as easily, and perhaps more accurately, say that I offer a *theory of the ethics of trade*. Part of what I have to say takes it, for example, that there is an enforceable duty to assist people who fall below some minimum threshold such that they are needy—and which might, in the case of foreigners, be satisfied by market opening.

The only (dis-)value I do not dwell on is malfeasance. I take it that harms to third-parties—negative externalities, economists would say—that might arise in the course of trade-integration are necessarily wrong. This is purely on the basis that this is not, I would have thought, controversial. Both free traders and fair traders have reason to be concerned that, for example, the trade-integration of China has led to people’s homes and farms being appropriated by the powerful to build factories. No other value is deemphasised a priori, however. I refer to “fair trade” only because this particular term is dominant in wider public discourse, in part as a consequence of the alliterative mirroring of its rival: free trade.

Talk of *ideals* is appropriate too, because my project falls largely, although not wholly, within the realm of ideal as opposed to non-ideal theory.¹¹ There is more than one way of making this distinction, so I will draw it in the way that is most revealing about what differentiates my project from much work on fair trade, including Stiglitz and Charlton’s. In making prescriptions, non-ideal theory starts from where we are—how trade relations and other dimensions of the global political order currently stand—and seeks practical guidance for how to proceed. In contrast, ideal theory paints a picture of the end toward which this guidance is ultimately (although perhaps circuitously) directed. Part of what “starting from where we are” and being “practical” is meant to imply is that non-ideal theory takes as given (hopefully on good empirical grounds) that some people will never be motivated to do what is morally required of them, and some relations and institutions will never be fully just. In this context, it might not be

¹¹ Rawls (1999a, pp. 7–8; 215–216).

possible to simply read off from ideal theory what is required of *other* people and *other* relations. Say that others are constantly failing to do what is ideally required of them. What is required of me might vary as a consequence. Perhaps less would be required of me (on the basis that, otherwise, I would bear an unfair share of the moral burden or be exploited by others) or perhaps more would be required of me (to compensate for others' deficiencies or ensure they play their part).

As I say, my theory is largely an ideal one. While I do, at relevant junctures, ask what one actor should do given the likely moral deficiencies of others (I ask, for example, how those with the power to shape a state's trade policy should exercise their choice given that citizens of that state cannot be relied upon to fulfil their obligation to aid needy foreigners unilaterally) my focus is not on the empirical detail of current trade flows and international trade law. Discussing in detail the extent to which, for example, each of the treaties that the World Trade Organization oversees is in accord with the ideal I offer, and deriving prescriptions based on what elements of these treaties are most amenable to amendment, is beyond the remit of this project. While not quite at the level of abstraction and generality as *A Theory of Justice*—which, it should be remembered, left to be determined whether the vision it articulated was more likely to be realised in a property-owning democracy or under liberal socialism—my theory is, nevertheless, somewhat abstract and general.

This might be thought a major weakness of the project. But the exact opposite is the case. There is no dearth of literature by economists, lawyers, political scientists, and policy professionals—not to mention concerned laypeople and activists—criticising one aspect or other of the world trade regime.¹² Indeed, in this post-Cold War and globalised era, there is scarce any

¹² From examples of critiques from each of these perspectives, see Stiglitz (2006), Thomas and Trachtman (2009), Kapstein (2006), and Wallach and Woodall (2004).

other dimension of international politics that has attracted so much normative attention. In the realm of personal choice, Western consumers are criticised for failing to ensure that the workers who grow their coffee and manufacture their consumer goods are paid a decent wage. In the realm of trade policy, the US and European Union are criticised for protecting their agricultural producers, thereby denying trade opportunities to less affluent foreigners. And in the realm of relations between states, the WTO is criticised on the basis that the views of rich countries dominate negotiations—or on the grounds that, in concert with the IMF, World Bank, and US Treasury, poorer countries have been induced to accept a developmental strategy—not merely a commercial policy—which they neither accept nor is in their best interest. But the comprehensive ideal that might underlie these particular judgements—and would demonstrate how they might cohere with one another and provide guidelines in cases of consumer choice, trade policy, and treaty negotiation that are *not* so easy to judge intuitively—is either unspecified or left somewhat vague. As the legal academic Frank Garcia has noted, constructive normative dialogue about international trade law is hampered by a failure to explicitly address fundamental questions of trade justice and their basis.¹³

Why might providing a principle or set of principles constituting such an ideal be necessary? Coherence might be thought necessary, of course, to demonstrate the rationality of a particular moral perspective. This is at least important for the persuasive appeal of that perspective. But beyond this, what is wrong with moral particularism—that perspective according to which we should not seek out or be guided by general and abstract moral principles (whether “maximise utility” or Kant’s categorical imperative), but follow our intuitions in particular cases? One problem with particularism is that it can leave us at a loss as to what to do. Take the criticisms of the trade regime raised in the previous paragraph. The first might be

¹³ Garcia (2006).

thought to require, morally speaking, a retreat from trade-integration. Yet the second seems to imply the opposite. If it is wrong to (in the terminology of this project) exploit the need of foreigners—through benefiting from consuming the goods they produce while they receive a sub-decent living—surely we have an obligation, at least some of the time, to purchase domestically produced goods? But how can this be squared with the apparent implications of the second criticism? For what European protection of agriculture achieves is precise this—consumption of relatively higher levels of European-produced as opposed to non-European-goods. There is also the problem of how moral judgments critical of the current state of trade relations can be squared, in policy-prescriptive terms, with unstated but widely shared judgements about just how good the developmental gains of trade-integration can be. Hardly anyone thinks, for instance, that development and poverty-alleviation are matters of moral indifference; most people think they are very good things indeed. To the extent that trade would actually lead to these gains, therefore—witness the developmental success of the East Asian Tigers and China—we have reason to promote trade-integration. But how can this be squared with the exploitation complaint raised above, the thrust of which seems to be that we should retreat from trade-integration?

Clarifying a fair trade ideal would also help us to arrive at judgements in cases where our intuitions are conflicted. Take Northern protection of agriculture again. This is sometimes defended on cultural grounds: namely on the basis that agricultural practices, the impact that they have on the landscape and rural people's lives, and the qualitatively unique products they produce help to sustain a nation's social values, geographic aesthetic, and distinctive diet. It is relatively easy see through this defence though. The vast majority of agricultural support is directed towards corporate agribusiness rather than small-scale farmers. But surely we want to

say that protecting culture is sometimes justified, even if this leaves foreigners at a competitive disadvantage. What are we to say in cases where protection *would* help to sustain local culture? Detroit has shrunk to a fraction of its former size on the back of the decline of the American automotive industry. Putting to one side, for a moment, the claim that such a policy could not have been justified to American consumers faced with higher automobile prices, might it have been permissible for the US to continue to protect its automobile industry, even if this would have placed foreigners producing equivalent goods at a competitive disadvantage?

Or consider support merely for the purposes of protecting the livelihoods of American manufacturing workers. Might this support be permissible—or perhaps even obligatory, as part of fulfilling a political duty incumbent on Americans to provide for their compatriots—despite the fact that foreigners would be denied opportunities as a result. In everyday political discourse, it is commonly thought that protection of any kind is within the scope of a society’s democratic choice, with the only moral constraint being whether that protection can be defended to citizens of that society who would do better without it. But there is a powerful cosmopolitan challenge to protectionism of any kind. How is protecting the livelihoods of Americans at the expense of foreigners any less objectionable than protecting the livelihoods of whites at the expense of blacks, or the livelihoods of men at the expense of women?¹⁴ Discrimination on the basis of unchosen characteristics of people—characteristics for which they cannot be held responsible—is often thought wrong. And purposeful (rather than unintended) discrimination on the basis of an unchosen feature that is central to a person’s sense of self and worth is usually thought a very bad wrong indeed.

Finally, the reader might wonder whether the theory I develop is a normative and ideal theory *of* trade or a normative and ideal theory that applies *in* trade. Do I, in other words,

¹⁴ See, for example, Singer (2002, ch. 5).

provide an account of when trade is permissible or obligatory, or an account of the moral demands that apply when trade (taken as always permissible, given its voluntary and mutually beneficial nature, but never obligatory) takes place, but not otherwise? The answer is that the theory I develop is *both* a theory of the ethics of trade *and* a theory of ethics in trade, and as such I will use these expressions interchangeably. In terms of the former, I argue both that we might ultimately be required to extend trade opportunities to needy foreigners (at least if this is more effective at achieving need-alleviation than, say, transfer aid)—opportunities whose terms are “loss making” even when compared to *equitable* terms that can be found elsewhere—and that, in theory at least, one might have to decline a trade opportunity on inequitable terms, despite the potential for mutual benefit, because equitable terms would cost one too much. In terms of the latter, I argue that when persons engage in mutually beneficial exchange—or states sign mutually beneficial treaties—that relation establishes duties of fairness in dividing the gains, or prospective gains, of those exchanges. These are not duties that extend to non-participants, and therefore are duties *in* trade only.

Finally, it is worth specifying the subject of my theory in such a way as to make clear how my concerns intersection the concerns of non-philosophers who invoke “fair trade”. In contemporary public debate, an appeal is made to “fair trade” in a variety of different contexts, and applied to a variety of different actors. First, it is applied to individuals—particularly in wealthy countries—in their role as consumers. It is claimed that the global affluent face an imperative, if they choose to purchase imports at all, to purchase only those imports that are certified fair trade. Goods that are certified fair trade are, then, goods whose producers are afforded a decent return and which are produced utilising environmentally sustainable practices.

A social movement has coalesced around the promotion of these sorts of fair trade practices, effective certification, and marketing to wealthy consumers.¹⁵

Second, talk of fair trade arises in debates over trade policy. Both advocates and defenders of trade protection—whether direct or indirect—couch their arguments in terms of fairness. Protectionists argue that the measures they favour are necessary to ensure that those members of that society who would fare worse without those protections, or would be disadvantaged if they were removed, are necessary to ensure fairness domestically. So, opponents of the lowering of US tariffs on manufactured goods, which has led US manufacturing jobs to move offshore, argue that protection is necessary to ensure that American workers are not forced to compete with foreigners able or willing to accept wages magnitudes lower. Were their more fortunate compatriots to fail to ensure such protection, they would be subjecting those workers to unjust treatment, and failing to fulfil their political obligations. On the other hand, proponents of trade liberalisation argue that withholding trade opportunities from foreigners (or worsening their terms) via trade protection constitutes discrimination that violates equality of opportunity, and is therefore wrong.¹⁶

Finally, it is claimed that the mission of the WTO should be to promote “fair trade” rather than “free trade” amongst its members. Critics of the WTO claim that its liberalisation agenda provides meagre benefits to poorer countries as opposed to richer countries. Requiring both rich and poor countries to liberalise is unfair to the latter because their need for trade policy flexibility is greater. Trade-protection is vital to fostering industries that are likely to fare well in the global market in the long-term, but are still in their infancy, to revenue collection in states with limited

¹⁵ On this movement, in particular its effectiveness, see Nicholls and Opal (2005), Jaffee (2007), and Lyon and Moberg (2010).

¹⁶ Matthias Risse (2007, pp. 366–367) has argued that if protectionism is democratically determined to be appropriate on the grounds that this is what domestic workers are *morally* entitled to, then it is justified. Moellendorf (2002, pp. 56–57) criticises views like this.

bureaucratic capacity, and to protect local culture. Further, poorer states are ill-prepared to shoulder the costs of adjustment when protective measures already in place are removed. They lack the industrial and social infrastructure needed to support the emergence of new businesses and enable reskilling.

Defenders of the WTO also appeal to fairness considerations. Two of the primary pillars of the WTO system are reciprocity and the most-favoured-nation principle.¹⁷ Reciprocity demands that any concessions a state might be required to make in a WTO treaty are reciprocated by sought-after concessions on the part of others. That no party can get “something for nothing” has obvious fairness appeal. More significantly perhaps, members of the WTO are not allowed (in theory at least) to discriminate between foreign countries in terms of whatever trade barriers they do have in place.¹⁸ This too has obvious fairness appeal. I have already mentioned that, contrary to conventional wisdom, discriminating against foreigners by means of tariffs or other trade barriers is subject to a cosmopolitan challenge. An analogous challenge can also be made to commercial policies that discriminate *amongst* foreigners supplying the same or relevant similar goods. Isn’t it wrong for a country to level higher tariffs on banana producers in one country than another? Isn’t this like an employer discriminating amongst equally qualified job candidates on the basis of their race?

Given the variety of these contexts and actors, the reader might wonder what debate I am entering into and to whom my prescriptions are intended to apply. My response is that I intend to address, if incompletely, each of these contexts and actors. In Chapter 2, I consider how cross-border trade between private actors, or the potential for it, might bear on our distributive duties. What I have to say here, of course, bears most directly on what should concern us in

¹⁷ Hoekman and Kostecki (2009, pp.38–43).

¹⁸ It is instructive to note that this sort of discrimination is illegal under the WTO even though it might be in a states economic interest. See Saggi and Yilditz (2005) and Broda et al (2008).

exercising consumer choice. In Chapter 3, I consider what moral constraints are grounded on the capacity for members of a society to affect a commercial policy. My analysis here bears most directly over debates about what range of trade policy choices are permissible, and of these, which is obligatory, if any. Finally, in Chapters 4 and 5, I discuss what duties are grounded on both the potential and practice of political bargaining between states, whether bilaterally or in a coordinated setting, as in the WTO. My analysis here is most pertinent to normative debates over the shape of the global trade regime. As I seek to contribute to each of these debates, I discuss moral constraints both on individuals and on societies/states. However, I take it that, ultimately, the obligations incumbent on societies are derivative of those on individual members of those societies in their political capacity. An obligation to adopt such-and-such a commercial policy, or such-and-such a bargaining position, is, in other words, an obligation incumbent citizens of that society to push for such a policy or position given their effective political influence justly exercised.

Why a Theory of Fair Trade?

At this point, the sceptically inclined reader might wonder what cause they have to read further. For surely if there is anything on which we can all agree, morally speaking, is it is that the economic disparities of our world are unconscionable.¹⁹ What plausible moral theory would not conclude that someone, somewhere, must do something about world poverty? And if this is my conclusion too, surely the real action is on Stiglitz and Charlton's turf? While there is something to this objection, there is value to this project over and above the contribution it makes to the philosophical literature on the grounds and scope of egalitarian distributive justice (which I discuss further below). First, while hardly anyone thinks that there is no reason to be concerned

¹⁹ For just how dire the situation is, see Singer (2009).

about the extent and depth of world poverty, there remains the question of equity. Even if no one in our own world were in absolute poverty, we might still ask if trade or trade relations were fair—either procedurally or in terms of their substantive implications. Consider trade and trade relations between more or less affluent countries in our own world, and the impact that this might have on their respective economy's structures, socio-economic distributions, or cultures. Don't we have reason to care about this?

At least in policy circles, there seems to be an impression that international trade and trade relations between states are *necessarily* immune from moral criticism, at least harms to third-parties or the environment to one side. As long as trade and trade treaties are voluntary (no one has had a gun held to their head) what procedural objection could there even be? And if trade and trade treaties *are* voluntary, they must be mutually beneficial subjectively—even if there were no economic evidence to the effect that they are mutually beneficial objectively (which, in fact, there is—qualms about appropriate economic measures to one side). In this context, what sort of objection to the substantive implications of trade and trade relations would even make sense, let alone be warranted?

Yet this impression is mistaken. Merely because someone voluntarily concedes to an economic exchange that benefits them is no necessary indication that they have not been wronged. Say that a firm paid blacks less than identically qualified and productive whites. Wouldn't that firm do wrong even if the black employees signed their employment contracts and were better off than they would have been if they had taken their next best employment option instead? In ordinary language, we often call the wrong entailed by a voluntary and mutually beneficial exchange *exploitation*.²⁰ This concept is central to my theory.

²⁰ Wertheimer (1996, pp. 27–28).

Second, even if we agreed that addressing world poverty should take priority—and the most interesting question is how trade and trade relations might further this end—this project has instrumental value.²¹ This is because there is good reason to believe that articulating a systematic conception of fairness in trade and trade relations would help to ensure progress in international trade negotiations. Not only is there ample laboratory evidence that a concern for fairness motivates people when bargaining in general, but widespread consensus that resolving disagreement over what fairness entails is crucial if the Doha Development Round is to get up and running again.²² Without a focal point, negotiations would be impeded even if all parties were appropriately motivated.

Of course, it is doubtful that state representatives in WTO negotiations *are* sufficiently motivated by ethical considerations. The most widely accepted accounts of the determinants of countries' bargaining positions in the WTO see these positions as the result of self-interested bargaining between powerful institutions and organized interests in the domestic political economy.²³ Yet even if these accounts are right that there are structural constraints on what might be expected of trade negotiators, my account is more likely to motivate powerful actors within rich countries than the leading alternatives. To date, most theorists of global justice who maintain that the global rich owe those who have less more than what they might voluntarily commit themselves to in contract or treaty tend to base their arguments on one of two values. Either they argue that the demands of *beneficence* are greater than commonly supposed,²⁴ or they

²¹ For an argument of this kind see De Bres (2011).

²² Narlikar (2006); Davidson et al (2006); Brown and Stern (2007).

²³ Hoekman and Kostecki (2009, pp. 34–38).

²⁴ Singer (1972); Peter Unger (1996).

maintain that (what amounts to) rectification is owed to poorer countries on the basis that the current global political order has, in effect, *harmed* them.²⁵

Evaluated purely in instrumental terms, both approaches lack motivational force. Beneficence is a synonym for charity, and charitable acts are normally thought of as good, but beyond the call of duty. And arguing that individuals in rich countries owe rectification for something that they did not choose is more likely to raise their hackles than prompt them to show greater concern, even if an empirical claim about imposition can be squared with the ostensibly voluntary character of trade and treaty relations (at least) in our decolonised world. In contrast, I offer an account in which what is owed by the global affluent is neither charity nor compensation for harm, but merely that they not take advantage of their greater bargaining power in trade and trade relations, but rather insure that poorer persons and countries are extended the share of the gains of exchange and treaty to which they are entitled on the basis of fairness.²⁶ As long as affluent persons and governments of wealthy countries do what is required of them in these terms, there is no reason for them to feel guilty about gaining from trade and treaty, even if some persons and societies from whom they gain face relatively worse life prospects (overall) as a consequence of an accident of birth.

Why Not a Deliberative Ideal?

Even the sceptic concerned about equity apart from its consequences for the absolutely poor—and who was prepared to recognise the instrumental value of my project in terms of specifying a focal point and motivating powerful actors—might still worry that a substantive account of the ethics of trade-integration threatens to preclude democratic deliberation on the matter. Aren't

²⁵ Thomas Pogge's work is associated with this position. See, for example, Pogge (2008, pp.18–26). For a criticism of this position see Risse (2005).

²⁶ For an account of global economic justice that starts from the same premise, see R. Miller (2010, ch. 3).

there likely to be a range of reasonable views globally, all of which ought to be given appropriate weight or otherwise recognised? Why not offer a theory of democracy in global economic governance instead, and leave it open what particular moral ideal will ultimately be arrived at?²⁷ There are a variety of reasons why I do not find this point particularly persuasive, at least when it is interpreted as an objection to this project. The first is that one can accept the view that it is not the task of the political theorist to legislate for others once-and-for-all—but rather to broadly specify terms that would allow others to legislate for themselves—while still recognising value in this project. If there are indeed a variety of reasonable views on what constitutes a fair trade ideal, all of which ought to be countenanced in democratic deliberation, then this project should be seen as one reasonable view among many—as an input into democratic debate rather than the only output that would justify a putatively democratic process.

Second, the most plausible moral objection to the trade regime in our own world is not that it is, in institutional form at least, undemocratic. In contrast to the World Bank and International Monetary Fund—in which votes are weighted according to financial contribution—every member of the WTO has, *formally speaking*, equal influence. Indeed, WTO agreements are (again, formally speaking) arrived at via consensus, rather than majority voting. Every country's influence is thereby a veto option, not merely a vote. To the extent that criticisms of the WTO for being undemocratic are warranted therefore—and I believe they generally are—I would suggest that they are warranted primarily because the reforms they imply are valuable for instrumental rather than intrinsic reasons.²⁸ Indeed, I doubt that “green room” negotiations at the WTO (from which all but a handful of large economies are excluded) would attract much negative attention if it were not for the fact that what comes out of these closed-door sessions

²⁷ For global democracy see Held (1995), Archibugi (2008), and Fraser (2010).

²⁸ For an instrumental argument for democratising international organisations see Weinstock (2006).

appears so unfair to the poor. Further, allegations that “consensus” agreements in the WTO are, in fact, anything but, necessarily rely on an implicit view about what constitutes unreasonable pressure on less powerful states. In Chapters 4 and 5 I seek to provide such an account.

Third, even to the extent that democracy has intrinsic value—justifying the consequences of decisions arrived (when they are arrived at democratically) rather than being justified by them—there remains the question of democracy’s scope. Unfortunately, this question has received surprising little explicit attention.²⁹ The claim that many questions of political ethics should be resolved democratically rather than legislated by the political theorist might be a better fit for our most secure convictions, but it is difficult to judge without an attendant account of who should have a (democratic) say over any given choice. Almost everyone would admit that there are some choices over which the individual alone is entitled to decide. Any moral theory that admits individual rights—of whatever shape and irrespective of their grounding—admits this. Most people would additionally admit a range of choices over which only a subset of humanity have a prerogative to decide, whether on the basis that only some person’s rights are implicated by the choice or on the grounds that groups can themselves bear rights. Anyone who believes in the value of self-determination and worries about persistent minorities in democracies admits this. If, therefore, the democratic objection to the value of this project is interpreted to imply that every trade or trade-related choice should be subject to democratic deliberation *globally*, this objection is likely to run up against firm and widely shared intuitions.

Indeed, one of the virtues of the ideal I develop is that, while admitting spheres of democratic choice, it appropriately draws the boundaries between these spheres. Thus, I argue that a country with no diplomatic or other ties with other countries—and which has already

²⁹ As noted by Saunders (forthcoming). Saunders criticises the popular, but flawed, “all affected” approach, as represented by Goodin (2007).

fulfilled any duties to provide charitable assistance to foreigners in dire poverty—can establish whatever trade policy it sees fit, even if foreigners would be worse off than equally talented and motivated citizens of that country in part as a result of opportunities thereby denied (at least as long as that country did not impact prices of traded goods in making that choice). This is part of the democratic prerogative of citizens of *that* country. If unwilling to accept this proposition at first, consider what its denial implies when it is recognised—as the WTO has in our own world—that almost any domestic legislation can have an impact on trade, whatever its intention. To deny this proposition then is to deny societies democratic autonomy. Yet I also argue that when a country is considering being party to a treaty with a number of other societies it can no longer pick whatever viable treaty option is in its best interest. For not all viable options are also permissible options. Our country must seek to ensure that the gains of treaty—the gains over and above what those societies could acquire if autarkic—is distributed fairly across all parties to that treaty. Even if other societies would be prepared to voluntarily sign a treaty offering them worse terms, this is no reason for inequity.

Fourth, the ideal I offer is, in fact, one that reserves considerable space for democratic deliberation, albeit across a set of actors that varies according to the choice at stake and within some broad bounds of principle. First, I do not seek to presume what goals a (democratic) society might seek that could be furthered via trade policy. Much normative economics assumes that states seek to maximise national income—or some other aggregative and material measure, like community surplus (producer surplus plus consumer surplus)—and asks what trade policy is optimal given this end. Recognising that societies might, and are indeed likely to have, other priorities—like preserving local culture and ensuring an equitable division of income, influence, and standing domestically—I do not seek to prescribe, at least once obligations are satisfied.

Neither do I presume to define fair division in such a way as to exclude reasonable difference. Take what I have to say about equitable division of the gains of treaty in Chapters 4 and 5. Here, I argue that ensuring a fair division of the social surplus is likely to be much more demanding of richer countries than is conventionally thought. This is because we are accustomed to define the range of treaty terms that would result in mutual net-benefit—over which fair division is restricted—by resort to *actual* rather than *permissible* BATNAs (threat points) for all parties.³⁰ Once it is recognised that a state’s actual “reserve price” in treaty negotiations—the best terms it could get in some other treaty—may itself reflect a potential transaction that is exploitative, we can see that the treaty surplus is, in fact, larger than usually assumed. Nevertheless, across this range of potential terms I recognise that there is more than one reasonable interpretation of what would be a fair division. A fair division is obviously an equal division, but what would *be* an equal division? Even were there one way of specifying equality theoretically (do we mean equality on a common currency, equality in utility, or minimax relative concession?) people would disagree on what actual treaty terms embody this ideal.³¹ As such, parties to treaties must deliberate with one another within the bounds of reasonable disagreement established via specification of the treaty surplus and in terms of the value of equality.

³⁰ BATNA stands for “best alternative to a negotiated agreement”. This is the baseline against which to assess how much two or more parties to an agreement gain given a set of terms. In a market, an actor’s BATNA is his or her *reserve price*: the price below which (for a seller)—and above which (for a purchaser)—that actor would not consent to the trade.

³¹ For the problem of what equality entails when it comes to dividing trade gains, see D. Miller (2010, pp. 18–23). Minimax relative concession is the bargaining solution defended by David Gauthier (1986) in *Morals by Agreement*. He argues that give the philosophical problem of how to compare utility across persons, a rational (some would say fair) division of a surplus between two individuals is that under which each gains (usually) to the same *proportional* extent, where the relevant proportion is how much better off that person is under the ultimate division relative to how better off they would have been if they got the whole surplus.

A Relational Account

Part of the motivational power of the theory I develop is a consequence of its *relational* character. A relational theory of distributive justice can be contrasted with a recipient-orientated theory.³² Recipient-orientated theories are of the form “to each according to X”, whether X be need, merit, entitlement, or some other variable. In contrast, according to a relational theory of distributive justice, whether one is owed anything, and how much one is owed, is a function of the relationships (of the kind relevant to that theory) in which one is situated. Two prominent recipient-orientated theories in the global justice literature are utilitarianism and (one variety of) luck-egalitarianism. The former maintains that more must be done to address global economic inequality on the basis that this will best promote aggregate utility. In determining whether anyone is owed anything, and, if so, how much they are owed, relationships are only of derivative importance. Let me give an illustration. If utilitarianism were right, more would have to be done to address global economic inequality whether or not the world was trade-integrated, or, indeed integrated relationally in other respects. The imperative to redistribute that applies to our own world would apply equally to a world in which there was no economic intercourse across borders, or indeed the potential for it. If foreigners live worse lives than us, and we can alleviate their burdens without sacrificing something of comparable moral worth, we ought to do so, whether we are tightly bound to their societies via trade (imagine these people producing our sneakers and iPads) or not. The fact of trade-integration might matter, but only to the extent that it shapes people’s preferences (the satisfaction of which the theory is concerned to maximise) or renders one means of rendering assistance a lesser sacrifice (in terms of preferences) than another. For example, more assistance would be required for an equivalent welfare gain in a trade-integrated world if globalization raised the social aspirations of the poor, but not otherwise.

³² For this way of making the distinction, see Schemmel (2012).

Similarly, natural-right luck egalitarians, as I shall call them, maintain that brute luck should be equalised irrespective of how persons stand relationally.³³ At a minimum, luck egalitarians believe that how much persons are owed should not be influenced by factors over which they exercised no choice, such as race, gender, and sexual orientation. Chosen inequalities might be consistent with justice, but unchosen inequalities definitively are not. Now, natural-right luck-egalitarianism is that variant of this theory according to which what one is owed in order that brute luck be equalised is owed to one as a natural right. In other words, it is owed by those who would otherwise be arbitrarily more fortunate on the basis of common humanity alone, and is not conditional on standing in some more specific relation. According to natural-right luck-egalitarians, then, it is unjust if someone has less than others as a consequence of the accident of nationality. I did not choose where I was born any more than I chose what race or gender I am. Therefore, it is unjust if I have less than those who happen to have been born elsewhere. This is true, whether I toil in factories producing consumer goods for them and live under a domestic political order constrained by the imperatives of the global trade regime, or inhabit a world in which each and every society is economically autarkic and there are no diplomatic relations between states.

In contrast, the theory I offer here is a relational one, in the sense that what less affluent foreigners are ultimately owed depends on the extent to which the world is trade-integrated.³⁴ At the core of my approach is a sense that justice, or morality more generally, is not merely about

³³ Just whose views better represent natural-right luck egalitarianism and whose views better represent relational luck-egalitarianism (whether “institutional” or “interactional”) is not clear cut, although Charles Beitz tends towards the former while Thomas Pogge tends towards the latter—see the discussion in Caney (2005, pp. 107–116). Here, Simon Caney claims that what I would call natural-right luck egalitarianism is best represented by David A. J. Richards (1982).

³⁴ For the independent significance of relationships, and the derivative importance of distributive justice in terms of its impact on these relationships, see Walzer (1982) and Anderson (1999). For a view of international distributive justice that builds on these accounts, see Altman and Wellman (2009, ch. 6). For a somewhat different relational view, see R. Miller (2010).

how well a series of separate individuals' lives go—even once their enjoyment of fulfilling social relations and sense of comparative status within a social order is taken into consideration—but how people are treated by and in the social and political processes that determine how their lives go. This is not, obviously, a unique perspective in the history of political thought. Witness Rousseau's argument in *The Social Contract*, that it is not the chains that bind man—once in society—that constitute his regrettable loss of liberty, but the political source of those constraints, at least when they originate outside the general will publically expressed, as he believed they did in his own society. Or consider Marx's claim that improving the wages and conditions of workers does nothing to address their alienation. As long as the capitalist is able to dominate the worker as a consequence of the power extended to him in a system of private property, the worker is wronged. Or ponder Kant's second formulation of the categorical imperative, according to which (in part) it is wrong to treat others as *mere* means to our ends, how well their lives go to one side. If their lives would go better if you *did* treat them as a mere means, you would still wrong them by failing to respect them. And if their lives are going badly, but you do not receive cooperative benefits from them (thereby standing in such a way that they are a means to nothing for you) you do not owe them anything on this score.

Indeed, my theory finds particular inspiration in this dimension of Kant's categorical imperative. This puts me in somewhat unusual company. Robert Nozick's libertarianism, of course, gives pride of place to the notion that it is wrong to use people, even as a means to ensure that others aren't used.³⁵ It might be thought, therefore, that the fair trade ideal I develop must ultimately render free trade fair. This is not the case, however. For unlike Nozick—and even many egalitarian liberals—I don't take *actual* consent on the part of another as sufficient to ensure that I do not use them as a mere means. Actual consent is necessary, for sure, but I must

³⁵ Nozick (1974, pp. 28–34).

additionally ensure that the terms of our interaction are such that my partner in interaction is treated fairly. When our interaction is one for productive economic purposes, at least, this requires an equitable division of the social surplus, on pain of exploitation.

The Scope of Distributive Concern

In developing a theory of this kind, I am not merely attempting to construct a coherent fair trade ideal. I also seek to make a contribution to the current debate among philosophers on the *scope* of egalitarian justice. Indeed, in a sense this is what my dissertation is about first and foremost. Specifically, I aim to provide an account of global distributive justice that accounts for the sense that “global justice has become more important as the world has become more connected”.³⁶

Define an egalitarian theory of distributive justice as any theory according to which what people owe one another is more extensive than respect for their Lockean rights (i.e. life, liberty of contract, and property) and whatever costs must be borne to ensure that the duties corresponding to these rights are enforced. Amongst egalitarians so-specified, there is division between those who believe that these more extensive duties are conditional on standing in a certain relationship, and those who believe that they are not. (This division can be seen even between relational and natural-right luck-egalitarians, for example.) Amongst relational egalitarians, there is further disagreement about which relationships are those that ground egalitarian duties. The key division here is between those who believe that only the compatriot relationship grounds egalitarian duties, and those who believe that common subjection to the

³⁶ Julius (2006, p. 187).

global order—however that is characterised—is sufficient to generate such duties, even if these duties differ somewhat in kind to the duties that bind citizens to one another.³⁷

In developing my relational account of fair trade in stages—with each chapter concerned with a new relationship—I seek to show both how particular relations matter and how a sense that the compatriot relationship is particularly important can be squared with the notion that distributive duties across borders have become more demanding as the world has become more integrated, the inflexibility of international law notwithstanding. Many relational accounts of global distributive justice that take an intermediate position between statism and cosmopolitanism—which are increasingly prevalent—imply such a function. But in breaking my trade-relational account into five separate stages I hope to make the function that I see as explicit as possible.

Of course, developing a relational account of global distributive justice *in the whole* is not my primary aim. Were this true, I would not arbitrarily restrict my analysis to those relationships entailed by trade-integration—relationships that have not received as much emphasis in the global justice literature as ties with perhaps more obvious moral-import, like cultural or political ties. Indeed, I might well emphasise relationships that least controversially generate duties: obviously coercive or harmful ones. I could seek, for instance, to build an account of global distributive justice on the historical wrongs of colonialisation and conquest, or the on-going wrong of global warming externalities.

But the fact that I focus on trade-integration for other reasons (namely because I am specifically concerned with establishing a fair trade ideal) does have an unintended benefit. If a

³⁷ Those who argue that duties of egalitarian justice are restricted, in our own world, to the compatriot relationship include Rawls (1999b), Blake (2001), Nagel (2005), Sangiovanni (2007). Egalitarians who have pointed to relational features of global politics that, in their view, ought to ground such duties across borders include Beitz (1979), Pogge (2002), Cohen and Sabel (2006), Julius (2006), Caney (2008), Pevnick (2008), Ronzoni (2009), Valentini (2011a), and James (2012).

convincing case can be built for a more-or-less egalitarian global economic order on the fact of relations of a voluntary and mutually beneficial character alone, the prospects for an all-things-considered egalitarian vision are all the stronger. In this respect, my study is analogous to a crucial-case study of the “least likely” variety in causal analysis.³⁸ If the hypothesis is that relationships ground extra-promissory obligations of an egalitarian kind, the case of voluntary and mutually beneficial economic exchange might seem to be that case in which the hypothesis is least likely to withstand falsification. After all, it isn’t a personal relationship of the kind we normally think carry obligations (like a relationship to family or friend), or one into which the normative authority of the law normally intrudes.

Of course, it might be objected that even if I am purely concerned with establishing an ideal to guide us in our trade and trade relations, it would be foolish to neglect ties across borders outside the domain of trade. For this would be to engage in a kind of moral reductionism. Perhaps the all-things-considered global distributive ideal towards which we ought to aspire is more than the sum of its parts. Maybe no single cross-border tie grounds an egalitarian duty, but all such ties considered together generate a set of such duties—including some applying to trade and trade relations? Perhaps, to use Rawlsian terminology, it is only all such relations together that constitute a “basic structure” (that social structure towards which egalitarian distributive principle exclusively apply)?³⁹ But this is to beg the question. A theoretical account would have to be offered to explain why we should expect an ideal of this kind. For my own part, I think it more plausible that the correct account of global distributive justice, and indeed domestic distributive justice, is a sum of its relational parts, albeit a complex sum.

³⁸ See Eckstein (1975) and Gerring (2007).

³⁹ For Rawls’s discussion of a society’s basic structure, see Rawls (1999a, pp. 6–10). For three interpretations of “basic structure”—all of which imply, in the author’s view, egalitarian duties across borders in our own world—see Abizadeh (2007).

Indeed, it might be thought a weakness of egalitarian accounts of distributive justice in general—especially accounts that take their distributive requirements as being grounded on political association rather than applicable in, for example, the state of nature—to explain where the extra-Lockean obligations they specify come from.⁴⁰ Aren't these merely duties of charity—indeed, natural duties of charity—masquerading as something more? Why should it be that, for instance, equality of fair opportunity and the difference principle ought to determine the pattern and shape of socio-economic inequality amongst citizens of a state—to illustrate the claim with Rawls's principles of domestic economic justice—but do not provide individuals with reasons for action in the absence of the tie of common citizenship? Why wouldn't individuals in the state of nature, in other words, face an obligation to (at a minimum) construct common institutions to ensure that these two principles determine the socio-economic distribution? My account does not suffer from this weakness, however. As I build my account on the basis of its particular relational parts, I seek to explicate how different sorts of egalitarian obligations arise even from micro-relations as opposed to macro-social-structures.

What Relationships?

I am not, of course, concerned with every international or transnational tie that characterises our own world. I am, rather, concerned with the relationship(s) of “trade”. After all, as the fair trade ideal I offer is a relational one, it also answers the following question: is there anything special about a trade-integrated world—as opposed to a world in which every society is economically autarkic—that generates extra-Lockean distributive demands? What is it about the way that foreigners stand with respect to one other in a trade-integrated world that leads them to owe each other more than merely respect for negative rights?

⁴⁰ Nozick (1974, pp. 183–189).

Yet it should be immediately apparent from reflecting on this question that a trade-integrated world entails more than one international or transnational relation. Indeed, one of the strengths of my project is that not only do I disaggregate “global order”—abstracting from its complexity in order to show how our judgements about one dimension of it might rest on firm foundations—but I disaggregate “trade-integration” itself. The various relations entailed by trade-integration are revealed by the differential sites of political disagreement and debate discussed above. First, there is the relation between individuals and firms entailed by trade itself—i.e. that relation entailed by private exchange across international borders. Second, there is the relation to foreigners established given a state capacity to enact a (potentially non-*laissez-faire*) commercial policy. This is of particular moral concern given its potential to shape the economic opportunities of foreigners and impact the terms on which private exchanges are actually concluded. Third, there is the relation established between persons whose respective governments are party to a trade agreement with one another (committing each country to refrain from protectionist measures of some kind, say). In this dissertation, each of these separate relations is the subject of a different chapter, with the third relation disaggregated further into that entailed by what I term a bilateral agreement and that entailed by what I call a coordinated agreement (for an example of the latter, think of a deal that both involves more than two countries and restricts what further trade deals each member-country might be party to).

Indeed, in the following pages I not only consider those cross-border relations between persons established by trade, trade-policy, and trade treaty (both bilateral and coordinated). I also consider those relations entailed by the *potential* for ties of these various kinds. Thus, I consider both what individuals might owe others by way of trade opportunities, as well as what might be owed given the practice of on-going trade (my project concerns both the ethics *of* trade

and *in* trade, the reader will recall). And I reflect on what a society might owe to others given a capacity to exercise a non-*laissez-faire* trade policy (e.g. is it obligatory to extend market access to countries with needy producers?) and what moral duties might emerge given a choice amongst otherwise permissible trade policy options (e.g. what is owed to those foreigners who would become tied to my society via trade under my society's optimal trade-policy choice?). Finally, I consider whether a country or group of countries might be obligated to admit outside parties to a trade treaty, as well as what co-members of such a treaty owe one another.

The reader might think that “relationship” is not the right term for the sort of ties I examine in this dissertation. (Indeed, “tie” might be thought inappropriate too, given the arms-length nature of some of the relevant relations.) After all, “relationship” is often reserved for *personal* ties—affective ties or those thought to be *constituted* by certain special obligations rather than merely entailing them as a by-product. A person's ties to their parents, children, relatives, friends, and colleagues obviously constitute relationships. It sits less easily with common usage, on the other hand, to describe someone as having a relationship with a stranger, especially a stranger with whom they share no common allegiance or loyalty. This perhaps explains why scholars of global distributive justice who adopt what I would call a relational basis to their account have turned recently to speaking instead of participation in common “practices”, and their views of distributive justice as “practice-dependent”.⁴¹

Yet despite the ties I am concerned with being largely impersonal, I prefer “relationship”. This is for two reasons: first, to emphasize the parallels between my view of global distributive justice (in its trade dimensions at least) and those view of domestic distributive justice that base obligations amongst compatriots on their interdependence rather than common allegiance or culture. Second “relationship” can be used to connote relative positions in a social setting of a

⁴¹ See James (2005), Sangiovanni (2007, 2008), Valentini (2011b), James (2012, pp. 25–31).

particular structure, even in the absence of an interactive or cooperative tie. (Think of the “relationship” between actors in a one-shot prisoner’s dilemma.) As some of the “relationships” I consider are of this kind (think of the relationship I have to a foreigner when I play a role in determining my state’s trade policy, even if I do not trade with that foreigner), “relationship” seems like a more appropriate term.

Method

The most distinctive aspect of my method is that I seek arrive at trade and trade-policy prescriptions via reflection on a series of *hypothetical* worlds—worlds that I also ask the reader to reflect on the for the purpose of assessing these claims. Each of these worlds is intended to pinpoint those moral intuitions or judgements (I will use the two terms interchangeably) that are pertinent to the dimension of trade-integration at hand. The world I start with, in Chapter 1, provides a baseline. This is a *world of autarkies*, in which there are a number of societies, as in our own world, but no economic or other cooperative ties across borders—or, indeed, the potential for them. This world is, in essence, Milton Friedman’s archipelago of Robinson Crusoes, which has often cropped up as a baseline against which to determine the gains of social cooperation in political philosophy.⁴² The central question in this chapter is what distributive duties might extend across the border in the *absence* of trade-integration of any kind.

In Chapter 2, I consider what I call the *world of liberal trading societies*, in which there is at least the potential for private trade across borders, but no society’s institutional capacity is sufficiently advanced such that it might interference with trade (via commercial policy). The central question here is how trade or the potential for it might reconfigure what is owed across

⁴² Friedman (1962, p. 165). See also Nozick (1974, p. 185), Buchanan (1995, pp. 63–65), Blake (2001, pp. 289 – 294) and R. Miller (2010, p. 35).

borders. In Chapter 3, I reflect on a *world of protectionist societies*—a world in which states possess the institutional capacity to implement a non-*laissez-faire* commercial policy, but do not possess the means to establish channels of diplomatic communication with one another, and therefore trade-policy bargaining or agreements are off the cards. The most important question here is what moral constraints bear on a society’s trade policy choice given its impact in shaping the economic opportunities of foreigners. Finally, in Chapters 4 and 5, I consider worlds in which states might bargain with one other or conclude trade treaties. (I call these the *world of bargaining states* and the *world of coordinated bargaining*.) The central questions here are how to determine the gains from treaty, how these gains ought to be divided, and under what circumstances it might be necessary to admit an outside state to an agreement even if this would represent a cost to current parties to that agreement.

It is, of course, common in moral and political philosophy to reflect on hypothetical, as opposed to actual, cases. This serves a number of important purposes. One is to enable us to test moral principles that, in the absence of such a test, would seem to justify ethical judgements made about actual cases. Say that you judged America right to drop the bomb on Hiroshima and Nagasaki in 1945, and the reason that you thought justified that particular judgement was that fewer lives were lost overall than if there had been an invasion of Japan. Indeed, you thought that a justified moral principle was the following: quality of lives being equal, one should always act so as to minimise lives lost. You might pause and reconsider both this principle and this judgement if faced with the well-known hypothetical scenario of Philippa Foot’s that Judith Jarvis Thomson has called “transplant”.⁴³

In this scenario, you are a doctor faced with a moral dilemma: either you can save one of your patients—who has an easily curable illness—and let five others awaiting transplants die, or

⁴³ Thomson (1985, p. 1396).

you kill that patient and use his organs to save the five. If you think that you would do wrong to kill the patient, you surely have reason to reconsider whether America did wrong in dropping the bomb on Japan. For in “transplant”, killing the patient and using his organs is that option that results in fewer lives being lost overall. Of course, there might be *real* cases that give us pause to reconsider what moral principles we consider justified. Indeed, for some people, their judgment that dropping the bomb on Japan was wrong might be so strong that *this* real case is one that causes them to reassess the principle that one should act so as to minimise the number of lives lost overall. But appealing to hypotheticals allows us to utilise our moral imagination without extensive knowledge of actual cases, and allowing for such appeals in general provides us with an incentive to engage that imagination in moral discourse with one another.

Second, hypotheticals can assist us in pinpointing those empirical features of the world that are morally relevant via controlled comparison. Just as comparing largely similar cases where the outcome was, in fact, different can help the social scientist to pinpoint those features of the world that constitute the *cause* of the difference in outcome—as per Mill’s method of difference—comparing largely similar instances in which one’s moral judgement is, in fact, different can help the moral philosopher to pinpoint those features of the world that seem to make a difference *morally*.

Again, Judith Jervis Thomson has utilised this technique extensively in assessing a variety of permutations of the famous trolley problem. Consider the contrast between the original formulation of the trolley problem and that variant called “fat man”.⁴⁴ In the original formulation, the reader is asked to picture themselves as the driver of a runaway trolley—a trolley that is about to mow down five workers on the line—who must decide whether to turn the trolley onto an adjacent track on which there is only one worker. In “fat man”, in contrast, the

⁴⁴ Thomson (1985, p. 1409).

reader is asked to envisage themselves as a bystander who can save the five by pushing a fat man into the path of the trolley. Now, both scenarios share much in common. Both are cases where there is a runaway trolley about to kill five workers, and the reader is offered the option of acting so as to ensure that only one person die. Yet most people have very different moral judgements about the permissibility of taking that option in one case versus the other. What then is that differential feature that explains this difference in judgement? While there is still more than one feature that might be doing the work here (is it the fact that the fat man is a bystander rather than a worker, or that the reader is a bystander rather than the trolley driver, for example?) the general point is that it is much easier to restrict the range of difference hypothetically than by scouring the world in search of real cases that are sufficiently similar.

Sometimes this method of pair-wise comparison is most practically useful when, instead of contrasting two hypothetical cases, a real case is compared to a largely similar hypothetical case. In comparing something real with something postulated, this method is somewhat similar to counterfactual comparison in causal analysis.⁴⁵ Say that we thought that Western barriers to immigration should be less restrictive, but we disagreed why. Some people argued that there was a natural right to migrate, while others argued that barriers to immigration should be lowered so as to advantage foreigners currently in poverty. One way of proceeding would be to contrast the judgement on our own world with one prompted via reflection on a world like ours in all respects bar one: namely bar that feature that figures in one reason but not the other. Say that, upon reflecting on a hypothetical world identical to ours—except that no individual in that world suffered from the degree of neediness that would trigger a duty for more affluent foreigners to assist—one judged that lowering immigration barriers was not morally required. Then one

⁴⁵ On causal inference using counterfactual analysis see Fearon (1991), Tetlock and Belkin (1996), and Lebow (2010).

would have reason to discount the view that a duty to lower such barriers in our own world was owed in order not to violate the natural rights of outsiders. The feature of our world that triggers a moral demand to lower barriers to migration is not, in other words, a natural freedom to move in social space, but rather significant economic inequality across borders.⁴⁶

Indeed, contrasting life under government with conditions in a state of nature (a scenario as like as our own as possible, but without a government)—as in the social contract tradition—can serve as just such a comparative analysis. We are used to thinking of the state of nature as serving a couple of related functions. One is to establish what *purpose* government might serve (the moral merits of this purpose to one side). In contrasting a world under government with a world without government, social contract theorists seek to pinpoint government's role. Speaking in crudely simplified terms, Hobbes alerts us to the role that government might play in furthering the self-interests of individuals, while Locke alerts us to the role that government might play in enforcing pre-existing moral constraints (which individuals would otherwise be tempted to violate as a consequence of their self-interests).

Another function that the state of nature serves is *to model the choice situation* in which persons are taken to contract with one another. Given the interests (self- or otherwise) that are assigned to people in the state of nature (which establishes broadly what the social compact is intended to further), and a picture of what life is like in the state of nature (which establishes a threat point or BATNA for parties to the social compact) what would people consent to? Having answered this question, it is then possible to establish whether a real government has overstepped the bounds of permissible action—or has failed to do all it ought to do—by contrasting how people's lives go under that government with how their lives would go (Hobbes) or ought to go (Locke) in the state of nature.

⁴⁶ This is the method and argument of James Woodward (1992).

However, there is also a somewhat neglected third purpose to comparing our own world to a state of nature: that is to establish the *grounds* on which (relational) duties are established. Say that we wanted to determine whether the existence of a state (say our own state) generated duties amongst its citizens, as Rousseau is concerned to ask. Then it seems inevitable that we contrast our own world with a similar world that lacks such a state. After all, it is only in contrasting our moral judgements on both of these worlds that we are able to establish whether the state itself grounds obligations, or is merely a vehicle to ensure that pre-existing obligations are fulfilled.

Via my schema of hypothetical worlds, I take advantage of all the benefits that might be had from reflecting on imagined scenarios. First, I use the various hypothetical worlds I describe to test, roughly speaking, principles that we might otherwise be inclined to endorse, particularly the principle that all that fairness requires in the international arena is non-interference and the fulfilment of contractual or contract-like commitments (like treaty commitments between states), whatever these might happen to entail. Describing possible acts, omissions, and their implications in the simplified model-like context of each of these hypothetical worlds may be enough, in itself, to convince some people of the need to reassess this principle.

It might be thought, for instance, that in the absence of treaty commitments to foreign societies, there are no moral constraints on what trade policy a state might adopt—this is, it might be thought, its democratic prerogative. After all, if the individual is not obliged to purchase any particular good, at least once duties of assistance to the needy are fulfilled—why should a society not be able to limit trade to any extent whatsoever, at least as long as its position is determined via an appropriately democratic and rights-respecting procedure domestically? Yet by describing how, for example, a society's trade policy can shape the terms on which trades

with foreigners are concluded—quite apart from determining the extend of trade in general—I seek to illustrate how this principle is inconsistent with the intuition that the gains of private exchange ought to be divided equitably.⁴⁷

Second, I seek to pinpoint what empirical features of the world are of relevance morally—and how they are relevant, in terms of what moral obligations they engender—via most-similar analysis, most obviously of contrasting hypothetical worlds. This is most evident in the way I contrast each successive hypothetical world with the one preceding it. In contrasting, for example, a world in which states are tied, or might be tied, via treaty, with one in which diplomatic contact is not even a possibility, and trade policy must be determined in political isolation, I seek to show how the potential and practice of diplomatic intercourse between societies bears on what each state is obliged to do or avoid in its political choice.

Indeed, to the extent that the account of cross-border distributive duties I offer in my final chapter is insufficiently generous—when contrasted with what the reader believes is owed in our own world—I establish another potentially productive contrast. If the reader accepts my argument, but nevertheless believes that we ultimately owe foreigners more, all things considered, then the contrast establishes that it must be some *other* relational feature of our own world that engenders these additional demands.

The flip side of this point is that, in each and every of my hypothetical worlds, I seek to exclude empirical features of our own world that might be thought to ground distributive duties on their own part. Thus, even when contemplating the fully trade-integrated world of Chapter 5—what I call a world of coordinated bargaining—I ask the reader to assume a context in which there are no non-trade-related political ties between societies (there is no UN-like institution in

⁴⁷ For the impact that the trade policy of a large country might have on world prices, and how this figures into a functional explanation of the WTO, see Bagwell and Staiger (1999, 2002).

this world, or even anything analogous to the World Bank or IMF) and no legacies of historical injustice that might demand rectification in the present. The reader should take it, for instance, that the global distribution he or she is called upon to contemplate in assessing my fair trade ideal is not one that is in part a legacy of conquest and colonisation. (Indeed, the reader should take it that my hypothetical worlds do not represent a Westphalian vision of international society that was imposed to the exclusion of alternative models of transnational order, but rather emerged spontaneously as autonomous nations and peoples encountered one another.) This is not to deny that these other features of the global order might have distributive import. Indeed, the opposite is the case. It is precisely *because* these other features of the world might themselves ground distributive demands that it is necessary to exclude them. Ultimately, I want to be sure that it the *trade*-relations I consider that are doing the driving work morally.

Finally, by abstracting from those political and legal features of our own order that might be thought to carry normative authority (think especially of the UN system and international law) I seek to establish what cross-border obligations are owed when established norms are put to one side. It might be thought that a project seeking to articulate a fair trade ideal must necessarily start with what already carries normative weight in international relations, and not merely on pragmatic grounds. International affairs often seem so far removed from the sites where we usually apply our moral reasoning—including our personal and professional relations—that it might seem as if there is no other way to proceed. But the advantage of reflecting on *simplified* analogues to our own world is that it allows us to better engage our own reason, thereby facilitating the development of an *external* standard by which to assess existing trade law. In this ways, I suppose, I share with the great theorists of the social contract tradition the thought that it

is only by abstracting away from existing institutions and structures of power that we can see the duties that bind us as human beings.

Chapter 1 – A World of Autarkies

In this dissertation, I ultimately seek to determine what cross-border obligations with distributive implications would pertain in a world characterised by full trade integration. It might seem strange, therefore, that in this first chapter I ask the following: what duties would be owed to foreigners *in the absence of trade integration*—indeed, in the absence of all transnational ties beyond mutual awareness and the practical possibility that economic assistance might be rendered. Yet the necessity of addressing this question is quickly made apparent when it is remembered that if there *are* any such duties, we already have a moral metric by which to assess a trade-integrated world. If people have obligations to one another even in the absence of trade ties—or even the potential for them—then we must ask ourselves how these ties, if and when they are to emerge, might be made consistent with duties already owed.

To concretely flesh-out what I mean here in terms of an important example: if it were the case that no person should be worse off than another merely because of where they were born—because one's place of birth is, like race and gender, a matter of brute luck—then we would already have a basis on which to assess a global trade regime, one that generates duties independent of whatever additional duties might be grounded on, for instance, private exchange across borders and commercial-policy agreements between states. If the rules of such a regime could be amended so as to achieve this outcome, then, presumably, this ought to be done—irrespective of what the shape or depth of trade integration under that regime currently looks like. Indeed, if this demanding luck-egalitarian claim were true, then there would be very little moral space left for a relational theory of global distributive justice to fill—whether that theory grounded its claims on trade ties (as I do in this dissertation) or on other relational features of global political practice. As such, it is not only necessary to reflect on a non-trade-integrated

world in order to establish what pre-existing duties ties of trade and treaty might need to be consistent with, but in order to establish what additional work a trade-relational account of trade ethics must do.

Of course, as I noted in the introduction to this dissertation, it is entirely possible that in our own world there are obligations grounded on non-trade-related features of global politics or history that are best cashed out via changes in the trade regime. (Think of amending the rules of the WTO not to ensure an equitable share of trade and treaty gains, but to compensate poorer countries for the harms of climate change.) Yet because my particular concern is trade and trade relations, I want to control for as many of these as possible. The reader should take it, for example, that each of the hypothetical worlds I leverage in this project precludes, by definition, the possibility of cross-border harms, whether via the utilisation or threat of military force, or as a consequence of environmental externalities, such as greenhouse gas emissions.

It is impossible though, to imagine a world in which *all* bases on which obligations might be grounded—beyond cross-border exchange and trade-treaty bargaining—are excluded. This is because for it to even make sense for us to ask what these *ties* ground, we must already assume several additional bases that might generate distributive duties of their own: namely the bases of common humanity and whatever grounds are implicated via the division of the world into multiple national jurisdictions, each exercising a claim over everyone within a particular territory (rather than across some subset of persons globally, regardless of location). It is also unavoidable, therefore, that I address what sorts of duties are grounded on *these* bases, even if my only concern is with the distributive implications of transnational exchange and international treaty.

Definitively determining what distributive duties are generated by common humanity alone, and by the division of the world into multiple national jurisdictions defined territorially (both with respect to fellow nationals and foreigners) would, of course, require me to develop much more than a relational fair trade ideal. Indeed, if I were to do so I would come quite close to developing an all-things-considered ideal of global distributive justice, albeit one that must be cashed out via trade relations. This would, of course, take me far outside the remit of this particular project. As such, the view that I develop in this chapter is somewhat tentative and not defended as deeply as it might be. Nevertheless, I hope to structure my case in sufficiently clear a way such that the reader can supplement their own conclusions on the questions I address while still agreeing with—or, at least, appreciating the value of—the case I make in the remaining chapters of this project. There is probably some room, in other words, for the reader to disagree with me about how much any of us should be required to sacrifice to assist the distant needy on the basis of their common humanity, while still agreeing with much of what I say about how much we owe our trade and treaty partners on the basis of our relations with them.

The following chapter is, then, structured as follows. After painting a picture of the world that the reader should envisage for the purposes of reflecting on the moral claims that I make in the remainder of the chapter—the world of autarkies—I address, first, the question of when, if ever, inequalities are unjust. I make the claim that, at least in a world of autarkies, *relative inequalities* between societies (or between individual members of different societies)—cannot be appropriately assessed as unjust. If those who have more would be equally well off if all those who have less did not exist (as is necessarily true in a world in which every society is economically autarkic) it is not clear that the relatively advantaged wrong the relatively disadvantaged, even when such inequalities can genuinely be attributed to brute luck.

Nevertheless, I claim in section II of the chapter that *absolute disadvantage*—that level of disadvantage that falls below a minimum threshold defining neediness or poverty—remains a concern even in the absence of social cooperation.

Indeed, in section III I defend an interpretation of our obligation of beneficence informed by, those less demanding than, Peter Singer’s moderate principle of beneficence as articulated in his formative 1972 article “Famine, Affluence, and Morality”.¹ I claim that we do have a duty to assist the needy (although not the relatively disadvantaged) up to the point at which we would have to sacrifice something morally significant, at least as long as doing so would not entail the violation of anyone’s rights. However, the appropriate standpoint from which to assess what counts as morally significant is that of one’s life as a whole, rather than each and every particular instance in which one might further sacrifice to assist the poor, or else a moderate stance on beneficence quickly erodes into something far more demanding.

In section IV, I continue the theme of beneficence, arguing that we often have reason to show particular concern to those needy persons who are close to us, and therefore our compatriots, at least in a world of autarkies.

In the fifth section of the chapter I consider why it might be that we have distributive duties to our compatriots over and above the duties we have to foreigners. At least in a world of autarkies, our compatriots are the only ones who benefit us through market transactions. To the extent that the terms of these transactions are unfair—they inequitably distributive the gains of exchange because of asymmetries in bargaining power, and are thereby exploitative—we have reason to push for a political regime that the libertarian would characterise as redistributive. Further, in a world of autarkies—and even in a world of private exchange across borders but little more—our compatriots are the only ones who provide us with public goods (conventionally

¹ Singer (1972).

defined, and more broadly). As such, we owe our fellow nationals—although not foreigners, at least in a world of autarkies—a political duty to seek to ensure that each person net-gain equitable from these. Finally, at least in a world of autarkies, the public goods we enjoy domestically do not arise spontaneously. It is not as if they are positive externalities arising as a by-product as each and every person best pursue their self-interest. Rather, everyone must comport their will to law's command. As such, we may owe those of our compatriots who are less able to co-generate value in the market even more than an equal share of their joint gains.

A World of Autarkies

As the purpose of this chapter is to establish what obligations with distributive import would be owed in the absence of trade or trade-related ties across borders, the reader should, when reflecting on the normative claims that I make in the remainder of a chapter, reflect on a world of autarkies—a world in which each and every society is economically self-contained.² But what exactly would this world of autarkies look like? Beyond the self-evident, several other specifications seem necessary.

First we should take it not merely that there is no private trade across borders in this world, but that trade is *not even a viable possibility*. Whether trading or declining to trade is ever itself obligatory, and what duties might be grounded on private exchange when it would otherwise be permissible, are questions that are intentionally reserved for Chapter 2.

Second, we should take it that, like trade, international migration is not a practical possibility either. When, if ever, immigration restrictions are permissible is much disputed in the global justice literature. On the one hand, cosmopolitans worry about the distributive

² As noted in the introduction, this thought experiment is not original. See Friedman (1962, p. 165), Nozick (1974, p. 185), Buchanan (1995, pp. 63–65), Blake (2001, pp. 289 – 294), and R. Miller (2010, p. 35).

implications of such restrictions for foreigners denied market opportunities and welfare provisions.³ And libertarians worry about how such restrictions can be justified to compatriots who would prefer to hire foreign labour or welcome foreigners into their homes.⁴ While on the other hand, proponents of national self-determination argue that any immigration restrictions are justified just in case they are the product of an adequately democratic procedure domestically.⁵ And communitarians argue that immigration restrictions are necessary to preserve a liberal and democratic public culture, even if it would be wrong to discriminate between potential admits on the basis of a perceived propensity for cultural adaption.⁶ Migration is not, however, the subject of this project. Unfortunately, it cannot be avoided altogether, as it is impossible to conceive of even a remotely plausible world that is trade integrated, but in which migration is not a possibility. Nevertheless, we will put off considering this issue until we are forced to confront it, as we will be in the next chapter when I outline the hypothetical world of liberal trading societies.

Third, we should take it that each of the societies in the world of autarkies is—or was in the not-too-distant past—roughly identical in its natural resources. The relative quantities and positions of arable land, rivers, and minerals, for example, are roughly equivalent; so too are each of the absolute quantities of each of these goods taken per capita. Further, the reader should take it that no country is so small or so large that concerns about economies or diseconomies of social scale arise. These assumptions are necessary in order for us to set aside, to the extent that

³ See, for example, Abizadeh (2008, 2010).

⁴ Although not a libertarian, the case for open borders is put most strongly by Joseph Carens (1987). See also Kukathas (2005).

⁵ Wellman (2008); Pevnick (2011)

⁶ Walzer (1983, ch. 2); D. Miller (2005, 2008, 2010).

this is possible, a potential basis for redistributive duties in our own world—the *de facto* division of the world’s resources between nation-states.⁷

I say that the reader should take it that societies in the world of autarkies (and all subsequent hypothetical worlds discussed in this project) have *identical* natural resources, rather than bundles of resources of *equal value*, because the latter seems more likely to entangle us in a tricky discussion of metrics. In our own world, actual market price seems inadequate as a means of assessing the value of natural resources within a given national territory. First, there is such disparity in *means* across persons globally, that going by actual market value threatens to privilege the valuations of some over those of others despite equal *willingness to pay*. Second, even if all were in an equal position to pay, actual market valuations would enable majorities to overrule minorities.⁸ Third, market valuations do not take into consideration externalities (think of harms to the environment or indigenous populations brought about by mineral extraction). Fourth, market valuations do not take into consideration the extent to which some country’s natural resources assume an economic value only because of something that persons within the same country did with, or do to, those natural resources.⁹ Think of a country that has a monopoly of a very valuable metal, but this metal is only valuable at all because of a recent invention by nationals of that country which enables its extraction for the first time. Or think of a country with very high urban property values, not because the land is arable or lies above valuable mineral seams but because of proximity to a dense network of economic exchange (largely among nationals of that country).¹⁰

⁷ Beitz (1979, pp. 136–143) was the first to raise this issue.

⁸ There are several differences senses in which this might be so. For one, see Waldfogel (2007).

⁹ Miller (2007, pp. 55–62).

¹⁰ Miller (2007, pp. 60–61).

Fifth, market valuations do not take into account the extent to which some physical things should not be taken to be resources—mean to other ends, rather than ends in themselves—at all.¹¹ Consider an indigenous tribe who are in desperate need because they recently suffered an environmental disaster. Further suppose that that tribe live in lands containing highly sought-after energy resources, but if they extracted those resources everything that is culturally meaningful about the territory they inhabit would be destroyed. Using a market metric for assessing the value of natural resources threatens—once combined with any plausible egalitarian principle concerning how natural resources should be distributed—to require this tribe to transfer to *others* despite their need.

By specifying that the reader should take it that societies in the world of autarkies have roughly identical natural resources, I do not, of course, avoid this problem entirely. After all, it might be objected that an identical distribution of natural resources is consistent with unfairness between a society under whose culture its identical share is the optimal bundle and a society whose national culture takes its identical share as the worse of all possible endowments. Nevertheless, this seems like the best working assumption on which to proceed.

Fourth, the reader should envisage a world in which there are no plausible grounds on which territorial jurisdiction might be disputed. I leave it open to the reader what grounds of this kind there might be. Nevertheless, it is important to point out that I intend this stipulation to apply both with respect to claims to territory on the basis of *cultural attachment*—on the basis, in other words, of a special role played by a particular physical territory in the identity of a nation—and with respect to claims to territory on the basis of who some or all of the people resident in that territory are, regardless of their nationality. In other words, the reader should assume that there are no plausible grounds on which states in the world of autarkies might claim cultural right

¹¹ This is Avery Koler's (2012) argument in "Justice, Territory, and Natural Resources".

over a territory, and/or jurisdictional authority between persons in a territory, that is currently ruled by another state. This is partly why I do not make a sharp conceptual distinction, in developing my fair trade ideal, between a state and a society (although I tend, of course, to use the former in reference to my hypothetical communities' institutional manifestations and the latter in reference to such communities as collections of interdependent persons).

The reader might wonder why we should start with a hypothetical world that is divided into a number of states at all. Even if we could determine how the world ought to be divided up territorially and/or otherwise into population segments *taking the fact of multiple states as given*, it might be thought that an ideal that must allow for this will inevitably be imperfect. Some people might suspect, for instance, that building a theory from a basis that already entails multiple states inevitably biases that theory against global egalitarianism. Yet there is no reason to think that this is so. What is important is not how many jurisdictions there are, but what they are charged to do and what powers are reserved for them to exercise. A world that is divided into multiple jurisdictions might well be consistent—on the relevant interpretation of the purpose and powers of each and every jurisdiction—with a justice-demand for luck-egalitarianism of global scope.

Finally, the reader should imagine a world in which citizens of different societies are aware of one another's economic circumstances. After all, it would be a moot point whether economic inequality across borders is unjust if no one were ever in a position to determine whether there was any such inequality. Further, despite the fact we are to take it that there are no economic, social, or political ties across borders in the world of autarkies—or the potential for (most of) them—we must allow for the possibility that societies might aid one another via transfer payments.

It is difficult to imagine a world that is geographically or otherwise similar to our own that satisfies all of the criteria listed above. As such, it is perhaps better that we begin by picturing an analogous world that is much simpler. Specifically, it seems helpful to imagine an *archipelago* of autarkic *island*-societies.¹² Let us say that the residents of the various island-states in this world can observe the conditions of those living on other islands due to their close proximity, but they do not interact with one another. Further, let us say that there is no potential for trade or migration between the islands because the waters are considered by all as too perilous to safely cross. We should also imagine, however, that it would be technically possible for one society to transfer economic resources to another, even at some transaction cost, should they choose to do so. So, while migration might be ruled out due to the treacherousness of the waters, it would be possible under favourable conditions for provisions to be floated on rafts from one society to another. Finally, let us imagine, for the time being at least, that each of these island-societies has equal natural resources. Indeed, due to the difficulties of assigning value to natural resources across cultural contexts and in the absence of particular human practices, it seems sensible to interpret “equal” to mean “identical” rather than “of equivalent value”.

I. Relative Inequality

Now, picture a variant of the world of autarkies in which some societies are richer than others. There might be, of course, some inequalities in such a world that hardly anyone would find morally problematic. Imagine, for instance, that one society is richer than an otherwise similar other only because of a recent political difference in response in the same event. Say, for example, that our archipelago of autarkies has recently been beset by heavy rains that destroyed

¹² Friedman (1962), Nozick (1974), Buchanan (1982), and Miller (2010) all picture their worlds as archipelagos, although Blake (2001) pictures mountains as the natural barriers between his hypothetical societies.

crops that were ready for harvest in every society. The effect on each and every of the economies as a consequence of this supply shock has been sufficient to induce recession. Now say that one of our island-societies (country A) responds with a fiscal stimulus package while another society (country B) responds by imposing austerity. Further suppose that one of these policy approaches is more successful than the other. Now, picture two similarly motivated and talented persons—one from each of these two societies respectively—who were both fully supportive of their government’s approach to tackling the recession.¹³ If some inequality opens up between them only because one government’s approach happens to be more effective than the other government’s approach, it is difficult to see what could be unjust about this.

However, this is not the sort of inequality that concerns people in our own world, and with which we will be primarily concerned in this dissertation. Consider first, dissenters. Take an individual citizen of the country that opted for austerity who would have preferred that his or her country take the stimulus route. Further suppose that he or she did all that was within their justified political power to prevent austerity from being imposed. Isn’t it wrong if this person ends up worse off than a similarly motivated and talented member of country A? Or imagine that country B did not *choose* to impose austerity—according to an appropriately democratic and rights-respecting procedure—but inherited from previous generations a severely eroded bureaucracy, effectively preventing it from pursuing an alternative approach. Wouldn’t it be unfair if a citizen of B were worse off than a similarly motivated and endowed citizen of A so

¹³ That we should compare individuals that are equivalently *motivated and endowed* when seeking to establish if there is any distributive unfairness between them is from Rawls’s principle of fair equality of opportunity (he also talks, more accurately perhaps, of equality of fair opportunity). Rawls himself (1999, p. 63n) credits it to Sidgwick’s *Method of Ethics* in a footnote. Luck-egalitarians would object, of course, that even if there is no inequality between any pair of persons equivalently motivated and endowed, there might still be unfairness all things considered—namely to the extent that people can’t help being more or less endowed, or even motivated. And it is the luck-egalitarian side of Rawls that leads him to supplement equality of fair opportunity with the difference principle. Nevertheless, I will often use an inequality between persons equally motivated and endowed as the axiomatic example of unfairness in order that my account speaks to as wide an audience as possible.

long as they had the same political preferences? Both of these examples give us pause to remember the problems inherent in identifying individuals with the societies of which they are members for the purposes of normative analysis.

Nevertheless, there are good reasons to think that even inequalities such as these do not pose a problem of political injustice across borders, at least in a world of autarkies. First, that an individual dissents from one particular policy or law that is instituted in their country—in circumstances where, had an alternative policy or law been adopted, that person would not have been so badly off relative to a similarly motivated and talented foreigner (as in the example illustrated above)—is not sufficient to establish that the *entirety* of the wealth gap between that person and the similar foreigner is unfair. If there would still have been somewhat of a wealth gap if that person's ideal policy or law had been adopted—or, indeed, if that gap had been *greater still* (in circumstances where the best alternative policy or law was not that person's ideal policy or law)—then we cannot gauge the extent of unfairness merely by contrasting their holdings.

Second, it is important to note that merely because one person is poorer than another (i.e. has a lower income or a less valuable bundle of material assets) is no reason to think that they are relatively worse off *all things considered*. There are several reasons why we should reject this inference. Most obviously, human wellbeing is multifaceted: to be poorer than someone else is not to be unambiguously worse off than them. You might have a spiritual practice that is uplifting, while they do not; you might have a supportive family, which they do not; you might have bodily vitality, which they lack; or you might be part of a close-knit community, while they are not.

Not only is wellbeing multifaceted, but there is no uncontroversial way to compute a commensurate measure across these different facets. How should different sorts of satisfactions be weighted? Metric problems are compounded when we seek to make comparisons between individuals who are members of different societies. Most importantly, there is the problem of cultural difference.¹⁴ Even if we could determine some way of computing an aggregate measure of wellbeing, that measure is likely to be much more controversial across societies than within them—whatever the precise shape of that measure—simply because cultural difference is greater globally than within any one society, even the most multicultural society.

Further, even if it were true that income, or material wealth, were the only facet of wellbeing that we should be concerned with for the purposes of distributive justice, it would not follow that contrasting the holdings of otherwise similar individuals across borders would be the right way to determine the extent of distributive unfairness globally. This is because money is not valuable in and of itself, but in terms of what it can acquire, and what it can acquire is sensitive to our location and societal context. This is more than a call to compare holdings at purchasing-power parity rather than at global market prices, although this is an important consideration. (A Teaching Assistant's stipend of US\$20,000 would be sufficient to sustain an affluent lifestyle in rural Sri Lanka, but is barely enough to cover rent in a Collegetown apartment complex in Ithaca.) Rather, it is a reminder that an identical bundle of goods differs in meaning depending on its social context.

To acquire a particular status or standing in a community is usually dependent, to some degree at least, on how wealthy one is—but an identical bundle of goods will give one higher social standing in a poorer community than a rich one. This is, of course, because one's social standing depends on how much one has *relative to others in one's community*, not on what one's

¹⁴ D. Miller (2007, pp. 62–68).

bundle contains per say, or what one's bundle contains in comparison to similar others outside your community.¹⁵ If we were concerned to establish the degree of cross-border inequality in social standing, for instance, we would compare not the absolute holdings of similarly motivated and talented members of different societies, but the position occupied by each within their respective social-economic distribution domestically. That two persons similarly motivated and talented occupy *equivalent* positions in the socio-economic hierarchies of their own communities might be sufficient to avoid the charge of unfairness.¹⁶

Now it might be argued that it is wrong to look down on people who have less than you, to envy those who have more, or even to feel a sense of shame at not being as wealthy as your neighbours. As such, it might be thought that the correct distributive justice *ideal* could not be one that pandered to, or permitted, such sentiments. Or it might be argued that economic inequality should be limited not because our distributive ideal must cater to these sentiments but because economic inequality tends to create them. But if the analysis above is right, then these arguments are going to be conditional on persons already being part, in some sense, of the same community.

Let us say, however, that the problem of what metric to use when attempting to establish the extent of inequality between persons across international borders is not insurmountable. Further suppose that it is possible to identify persons who would be indisputable better off if only they had not been born in their actual society, but rather in the society that best accords with their socio-political ideal all things considered. Isn't it unfair that such persons are worse off than similarly industrious and talented members of that other society? While admitting that such

¹⁵ Wellman (2000); Singer (2004, p. 22).

¹⁶ This is David Miller's position (2007, p. 78). He is inspired by Michael Walzer's vision of "complex equality" (1983, chs. 1 and 13).

relative inequalities might be bad—such that if they could be corrected without cost they ought to be—there is reason to think that a defensible distributive ideal would still permit them.

First, it is instructive to note that merely because something is unfair is no necessary reason to think that it is unjust.¹⁷ Even Rawls's egalitarian theory of justice—in which there is a presumption of simple equality in income and wealth (only to be departed from if this will improve the conditions of those who end up worst off, and only then if this is consistent with equality of fair opportunity)—admits a degree of unfairness. This is because Rawls leaves the (non-discriminatory) market to determine the *identity* of who ends up in the worst-off position. This is more than merely the point that Rawls tolerates inequality on morally arbitrary bases—namely on the bases of *unchosen* personal-drive and *inherent* talent.¹⁸ After all, the difference principle does a good job of justifying inequality on these bases *in general* by appealing to considerations of efficiency. Rather, the point is that Rawls leaves it to the market to determine *which* talents and related aspirations will be rewarded more highly—even degrees of non-arbitrariness in these features of persons *held constant*. In a Rawlsian society, in other words, there is no telling who will end up at the bottom of the pile. And on who *ought* to end up worst off, Rawls's theory is agnostic. Will it be miners or agricultural labourers? Or will it be factory or retail employees? Say that it is miners who end up worst off. Why should it be that people who are miners are worse off than agricultural labourers, factory-workers, or retail-employees of *equivalent* drive and *comparable* talent (in their own spheres)? The point is that Rawls allows brute luck—in the form of the procedural hand of a non-discriminatory market—to determine

¹⁷ Even luck-egalitarianism's opponents usually accept that unfairnesses like these would probably demand neutralisation if it weren't for more pressing concerns of domination, oppression, and exploitation. See, for example, Altman and Wellman (2009, pp. 131–137). My approach here, therefore, is somewhat different. The thought that something can be unfair without being unjust I owe to Nozick (1974, pp. 185–186), but the argument I seek to advance below is obviously quite different.

¹⁸ This is G.A. Cohen's well-known criticism of Rawls. See Cohen (2000, pp. 134–147 and 2008, pp. 116–180).

what will count as being more talented (even if the bounds of how much more greater talents will be *rewarded* is restricted by the difference principle).

As the difference principle is intended to regular the economic distribution as a whole—determining the defensible wealth gap between each and every class in a society, not merely between the best and worst off—this point can be even better illustrated by the following example. Picture someone who is an industrious and talented artist. Further suppose that that person was born into a materialistic society in which most people think art is of little value, particularly art in the style of our artist. Now picture another member of that society who is an industrious and talented soccer player. Further suppose that most people in our materialistic society adore watching soccer. Odds are, of course, that even if this society is organised along Rawlsian lines, the soccer player will end up better off than the artist, despite both being equally hard working and both being equally talented, at least in their respective fields. If this society were one among many in a world of autarkies our artist might well wish that he had been born in a different society—one in which persons place a premium on aesthetic as opposed to sporting achievement. But arguably, the relatively inequality here, while certainly unlucky—and perhaps even, on that basis, unfair—is not unjust. Regulating where each particular occupation should stand in the socio-economic distribution would involve unjustified interference with people's liberty. It may well, of course, cost a society in terms of productive efficiency too.¹⁹

Things might be different if the state *mandated* that the soccer player would make more than the artist—regardless of what anyone's preferences happened to be about the merits of painters as compared to soccer players—rather than leaving it open to the market to see what would spontaneously emerge. Indeed, this alerts us to an additional set of reasons why something that is putatively unfair—in that it can be attributed to brute luck—is not necessarily

¹⁹ Anderson (2008) elaborates both the freedom and efficiency criticisms of luck-egalitarianism.

unjust. What *process* brought about an unlucky inequality is clearly going to bear on our justice-assessment.

This brings me to my second point. In a world of autarkies, an inequality between otherwise similar persons across international borders is not unjust because that inequality cannot have been *imposed* on the worse off, either by the better off or by some common set of global institutions in which the better off dominate. The reader will recall that, in specifying the hypothetical world of autarkies above, I explicitly ruled out the possibility that force might be rendered across international borders, or even that negative externalities might impact abroad. (If the latter seems implausible, the reader should take it that the societies in our hypothetical archipelago are not sufficiently advantaged such that they pollute the archipelago's air or waters to a degree where there would not be enough and as good left for others.) Indeed, someone who is on the wrong end of an unlucky international inequality in the world of autarkies would be no better off if all persons who might be contrasted as fortunate did not even exist.

It might be argued—as I do in future chapters—that it is possible to wrong someone via an interaction with them even if they are not harmed. If somebody benefits you in an interaction and you do not reciprocate sufficiently, you are open to the charge of exploitation. The gains of such interactions should be evenly distributed if parties to them are to avoid the charge that they are using the other as a *mere* means. Yet there are no mutually beneficial interactions across borders in the world of autarkies—nor, indeed, the potential for them. As a consequence, those who are on the fortunate end of unlucky international inequalities are no better off than they would be if everyone who could be placed on the other end of such a cross-border comparison did not exist.

Not only is relative disadvantage in the world of autarkies neither the result of wrongful harming nor a product of exploitation (at least across international borders)—it can't even be construed as being the foreseeable but indirect consequence of a common politico-legal order. Many egalitarians have argued, or at least implied, that a set of Lockean rights would be sufficient to secure distributive justice in a state of nature, but insufficient so long as persons are united under the institution of the state (or sufficiently similar institutions across borders of internationally). This is because with the *enforcement* of distributive duties—think of stipulated legal penalties for wrongdoing—arises the potential for what has variously been described as oppression and domination, but which is best characterised as the violation of autonomy (where autonomy is understood as a life governed by one's own will, rather than the will or wills of others).²⁰

This is best explicated by way of example. If a person ends up relatively worse off than a similar other in a state of nature, at least they can still claim to be master of their own life. They can say to themselves: "I might have less than others, but this is only because I have *chosen* to do the right thing and refrained from stealing". But if someone ends up relatively worse off than a similar other under a state—where they would be *deterred* from violating the rights of others by stipulated punishments even if they were purely self-interested—they can no longer make quite the same claim. Of course, even in a state of nature, a person might be deterred from harming others to advance themselves. Private threats might be sufficient, in other words, to deter someone insufficiency concerned about justice from stealing from others. But the power at the

²⁰ On autonomy, see Raz (1986). Blake (2001) bases his statist account of egalitarian duties on the value of autonomy. Critics, including Abizadeh (2007), have pointed out that international cooperation and institutions clearly bear on autonomy. Hassoun (2012) argues that all those subject to the rules of institutions must have sufficient material resources to secure autonomy, or else they are not in a position to consent to, or dissent from, those rules.

disposal of the state is obviously magnitudes greater, and generally considered to carry greater normative authority.

I hope by now to have given the reader sufficient reason to believe that cross-border inequalities between unrelated strangers is not a serious concern in and of itself—at least not sufficiently grave a concern to justify restrictions on liberty. (Later in the chapter I discuss circumstances in which how well off people are relative to one another *is* a concern—circumstances which only arise *within* societies in a world of autarkies.) However, this is not to deny that when persons fall below some absolute threshold—such that it makes sense to say that they are in *need* (rather than merely less well placed to satisfy their *wants*)—those who are more fortunate have an obligation to assist them. If no one fell below such a threshold, it would not matter whether the fortunate were twice as well off as their foreign peers, or whether they were a hundred times better off—at least in the absence of ties across borders, or the potential for them, as in the world of autarkies. However, if those on the unlucky end of international inequalities were actually in need, the more advantaged would have a duty to assist them, even if those persons more advantaged were only somewhat better off than the needy.

II. Absolute Need

Why accept that we have positive duties to assist the needy at all? I do not propose, in this dissertation, to offer a defence of our obligations in general, whether positive or negative. Needless to say, this would take me well outside the scope of this particular project. For present purposes, I see fit to rely on Peter Singer’s thought experiment from “Famine, Affluence, and Morality”.²¹ In this article, Singer asks us to consider whether we would have a duty to pull a drowning toddler from a pond, even at the cost of ruining our, perhaps expensive, clothes. As

²¹ Singer (1972).

Singer notes, hardly anyone thinks that we would fail to do wrong if we did not rescue the toddler. As discussed further below, this seems to be true even if we were not responsible for the toddler falling into the pond, and even if there were others in a position to assist—including, perhaps, those responsible for the toddler's plight—but these others did nothing to help. Indeed, my guess is that most people would think someone that failed to assist in such a scenario committed a serious wrong—indeed, perhaps was criminally negligent. Although Singer reasons *from* this judgement—seeking to justify assistance even to those at a distance—rather than seeking to justify the judgement itself, there is, I think, sufficient agreement on this point from those with widely differing moral perspectives to use it as starting point for the purposes of political theory.

Before moving on to a discussion of what might be owed to assist the foreign needy—even in a world of autarkies—it is necessary, however, to address a concern with centring this discussion on Singer's thought experiment. This concern is that Singer proffers, via this thought experiment, an example of someone who is not merely below that threshold that grounds a concomitant obligation on others to assist, but *very far below that threshold indeed*. The worry is, then, that if we start our analysis with Singer we will build into our theory an insufficiently generous account of need. First, are we to take it that persons are only in absolute need if they face a very high probability of premature death? What if that probability is not near certainty, but nevertheless very high? Second, what about persons who will only face a very high probability of imminent death when they have already lived a long life, but that life itself is beset by ongoing suffering—say as a consequence of health problems that are treatable? Aren't they entitled to assistance too? Third, the thought experiment Singer offers us is one in which the actor in need of assistance is an axiomatic moral patient rather than moral agent. Toddlers

cannot be held responsible for what they do under any circumstances. Are we to take it then, that those who are suffering as a consequence of foolish gambles that they have made in their life are not to count as needy for the purposes of defining who is entitled to assistance, even if their circumstances are dire?

In response to these queries, I should make clear that the working conception of need I would use for the purposes of this project is more generous than that implicated in Singer's thought experiment. If people are so poor that they are malnourished, or lack adequate housing and healthcare because they cannot afford it, I would count them as needy even if they are not in serious danger of imminent death, but merely endure ongoing suffering. But I will not offer a full description or defence of what degree of deprivation grounds an obligation on others to assist.²² This would warrant a whole dissertation on its own—one that would require, I suspect, a full account of our obligations to others in general. I will also not dwell on how we are to treat persons above, but close to, the threshold of absolute need, or discuss how differences in degrees of need affect how much we are required to sacrifice in providing assistance, and to whom in particular assistance should be directed. In the interests of most clearly addressing the trade-related issues that are my central concern, these tricky matters are better left for another place.

It is also worth noting that I also think that people whose circumstances would otherwise dictate that they are entitled to assistance do not forfeit their entitlement when they are needy because they chose an option involving some probability of ending up needy that turned out for the worse. If every course of action that a person faces involves some probability of them ending up needy (which one is tempted to think is usually the case when it comes to the global poor) it would be unfair to require that persons who chose anything other than the least risky option forfeit the whole of their entitlement. More significantly, it just doesn't seem that the fact that

²² On needs sufficiently grave to ground a right to be assisted, see Shue (1980) and D. Miller (2007, ch. 9).

someone in need consciously assumed a risk is enough to justify ignoring their plight, even if assisting them should be a lesser priority. Elizabeth Anderson has made this argument under the heading “abandonment of negligent victims”.²³ Picture Singer’s drowning toddler example again, but suppose instead that there is an adult struggling in the water—an adult who cannot swim but was balancing on the edge of the fountain for risk-taking fun. Surely one has a duty to prevent that person from drowning, even if they behaved foolishly.

III. Assisting the Needy and Sacrifice

Peter Singer maintains that the moral principle that underlies the judgement that one should rescue the drowning toddler is the following: if one has the power to stop something bad from happening, without thereby sacrificing something of *comparative moral worth*, one ought, morally speaking, to do it.²⁴ (This is Singer’s Strong Principle; his Moderate Principle will be introduced later.) In articulating the principle in this way, Singer means to put to one side constraints that critics of utilitarianism would be most concerned about.²⁵ His Strong Principle is not meant to justify robbery or assault—violations of the rights of others—in the interests of assisting the needy, but rather demands that fortunate persons sacrifice the pursuit of their wants in order to alleviate the needs of others. In other words, although one might value that which one could spend one’s money on if one didn’t have to replace the clothes ruined in saving the drowning toddler—or the greater freedom to choose what to spend one’s money on (that one would have had if not lacking a particular suit) in and of itself—this is not morally comparable to the loss of a life.

²³ Anderson (1999, p. 296). See also, Satz (2010, pp. 84–89).

²⁴ Singer (1972, p. 231).

²⁵ Arneson (2009).

Singer notes that this principle is not conditional in the sense that it restricts the scope of beneficent concern—such that some needy people do not count at all—or requires us to weight satisfying the needs of some more than the needs of others. This is because he does not see any basic reason why we ought to prioritise strangers who we encounter, or who are close to us—or who are our compatriots, for that matter—over others. Maybe we are more likely to *feel* sympathetic in these cases, but this does not seem morally relevant. As such, Singer reasons that we are not *only* obliged to sacrifice in situations where we happen to encounter someone in need close at hand, but make analogous sacrifices (in terms of cost) whenever we can, just so long as there are persons in need somewhere in the world. Every time we spend money on ourselves we should consider how much more good that money could do if donated, for instance, to Oxfam or Médecins Sans Frontières. As long as it *could* do more good, we do wrong to spend it on ourselves. If forced to make a trade-off between helping some needy people and helping others, we should do whatever happens to best minimise need overall (the Strong Principle dictates this too, as failing to assist *more* needy people would mean sacrificing something of greater moral worth).

Singer's article has provoked a long-running debate about the demands of beneficence, which is responsible for an extensive and growing literature. Doing justice to this debate and literature would side-track us from our primary aim—namely to provide a working account of what would be owed to the foreign needy in a world of autarkies, so as to begin to consider the moral implications of trade. Nevertheless, some further analysis is necessary even to arrive at this working account.

Singer's argument challenges us in two interrelated ways. First, it challenges us to reconsider the upward limit on sacrifice that pre-reflective common sense seems to entail. If we

accept that we should sacrifice our clothes to save a drowning toddler we encounter close at hand, why not think that we have to sacrifice *further* as long as there are people in comparative need somewhere out there? Second, it challenges us to consider whether we are wrongfully biased in the way we distribute aid. Is a toddler we encounter more important than one in a far way country at similar risk of premature death? Isn't prioritising those whom we encounter—or indeed our compatriots—as bad as saving white children but not black children?²⁶

Critics have made a number of arguments in an attempt to establish some limit to requisite sacrifice under beneficence. Liam Murphy, for instance, has argued that we need only sacrifice *our fair share* of what would need to be sacrificed overall to minimise neediness.²⁷ If there are affluent others who do nothing to assist the needy, in other words, I am not required to take up their slack. But this seems implausible when we reflect on Singer's thought experiment again. Say that there are *two* drowning toddlers in the water, and one other bystander besides myself. Further suppose that this bystander does nothing to assist either child. Wouldn't I do wrong if I saved only *one* of the drowning toddlers—reasoning that to do more would be to shoulder a burden that, in fairness, should be shared by the other bystander too?

Taking a different line of argument, Garrett Cullity has maintained that there is a contradiction at the heart of Singer's Strong Principle. If the strong principle says that we do wrong if we do not pursue an altruistic life—instead (on Cullity's interpretation of a non-altruistic life) devoting some of our time and resources to our special projects and relationships—why should the need of others place a demand on us at all? If the value in

²⁶ Singer (2004, p.18).

²⁷ Murphy (2000).

assisting the needy lies in enabling them to pursue *their* special projects and relationships, then surely assisting them would be helping others to do wrong?²⁸

But an altruistic life, in the sense of Singer's Strong Principle, is not one in which one's self-interests ought to count for nothing, but rather one in which we should not assign our self-interests greater weight than the self-interests of others when deciding what to do. As such, assisting the needy does not entail helping them to do wrong (even if the extent to which *they* will thereafter live a life governed by the Strong Principle ought to matter when determining which particular needy people to prioritise).²⁹ Also, Cullity fails to take into account *degrees* of wrongness. Maybe if I help a person to escape need who won't themselves do much to help others—instead focusing on their special projects and relationships—I do wrong to *some degree*. But I do *much worse* not to help them at all, at least when the sacrifice to my special projects and relationships entailed in assisting them would not be comparable to their loss (in the same terms) were I not to assist. That two persons' self-interests are somewhat satisfied is better than one person's self-interests being a little more satisfied while the other person is left, in the drowning toddler case at least, to die.

It is clear, however, that Singer's Strong Principle departs significantly from what most people commonly think is required of us—regardless of their particular philosophical or political views—and this might be sufficient to reject it for the purposes of developing a political theory. If a political ideal is to command some degree of actual consensus to be justified, then we cannot start with so controversial a principle. More importantly, perhaps, a political ideal is necessary a public one, and openly advocating Singer's principle may do more harm than good—even by Singer's lights—so long as people are likely to reject a demanding principle of beneficence when

²⁸ Cullity (2003, 2004).

²⁹ Arneson (2009).

they would accept and act from a more moderate one. Most of us do not, for instance, think that one is obliged to sacrifice an arm to save the life of an endangered stranger, even if an arm is not of comparable moral worth to a life, and even though doing so would be virtuous.

The upward limit on sacrifice entailed by common-sense morality reveals itself if we adapt Singer's drowning child scenario so that it better represents the choice situation that any one of us—the affluent class globally—find ourselves in with respect to the needy in general. Amending Singer's scenario in this way also helps us to see that our intuition in Singer's actual case is not a reflection of some potentially wrongful bias in favour of those who are close and/or our compatriots. For it turns out that were the bad things we confront and/or that affect our compatriots sufficiently grave, the upward limit on requisite sacrifice would kick-in despite how close the needy stand with respect to us.

In redrawing Singer's scenario, let us say first that we are not to consider merely one point in time. Rather than chancing across a drowning stranger at one moment in my life (when I have never been in such a situation before, nor am I likely to be in the future—the reality for the vast majority of Singer's readers) let us say that I am constantly in the presence of a drowning stranger: as soon as I pull one from the water, another is floundering in need of assistance. Further, let us say that the extended period we are to reflect on is not merely a matter of days or weeks, but one's whole lifetime. Next, let us say that rather than facing one stranger drowning, I am facing many—indeed, too many to count. Such an amended case is much closer to the global aid scenario in which individual members of affluent countries actually find themselves. Finally, in order to test whether reluctance to reason from Singer's drowning child scenario to the case of foreign aid reflects a bias in favour of those who are close and/or our compatriots, suppose that all these drowning strangers are members of my direct community.

What would be my obligations if I lived in a frightening world in which I was constantly encountering a multitude of drowning strangers throughout the entire course of my life? I suspect that most of my readers will think I would do no wrong to stop short of dedicating my life to saving these unlucky strangers, as Singer's Strong Principle would require. As Richard Miller has argued, "in the ghastly circumstance of frequent encounter, every day, with innocents in imminent dire peril, it might even be morally permissible for someone to neglect a drowning toddler close at hand, because he must ration individually easy aid to nearby victims to take adequate care of his loved ones and his life".³⁰

As part of our working account of what the affluent would owe the needy even in a world of autarkies, let us move, then, to Singer's Moderate Principle: if we have the power to prevent something bad from happening, without thereby sacrificing something *morally significant* (rather than of *comparable* moral worth), we ought, morally speaking, to do it. Further let us take the aggregative rather than iterative interpretation of this principle.³¹ In other words, rather than seeing Singer's moderate principle as applying separately at each particular *instance* (however defined) in our life—or to each extra *increment* of time or resources—we should see it as applying to our lives overall. As such, it regulates our *disposition* to give in general (from which choices at particular instances and over particular increments proceed) rather than each of these choices in and of itself.

It is necessary to interpret Singer's Moderate Principle in this way merely to preserve its spirit, as otherwise it is unstable in the mode of Sorites Paradox. No single dollar is a morally significant sacrifice for someone who is affluent by global standards, so if we applied Singer's Moderate Principle of beneficence to *each new dollar earned in isolation*, all or almost all of

³⁰ R. Miller (2004, pp. 113 – 114).

³¹ This terminology is that of Cullity (2006). Richard Miller also makes this argument (2004b, pp. 363–366).

one's income would ultimately have to be sacrificed to help the needy. Yet sacrificing almost all one's income considered as a whole *would* be a morally significant sacrifice overall—except, perhaps, for an ascetic hermit—as it would severely erode one's ability to pursue one's personal projects and relationships.³²

The resulting dispositional and life-long interpretation of Singer's Moderate Principle is informed by, and very similar to, Richard Miller's Principle of Sympathy. This is the principle of beneficence, and the limit on sacrifice that it entails, that I adopt for the purposes of developing my fair trade ideal:

One's underlying disposition to respond to neediness ought to be sufficiently demanding that giving which would express greater underlying concern would impose a significant risk, on balance, of significantly worsening one's life, if one fulfilled all further responsibilities; and it need not be any more demanding than this.³³

IV. Distributing Assistance under Requisite Sacrifice

It is clear then, I think, that even in a world of autarkies the affluent might be obligated to redistributive across borders. This is true even if inequalities of brute luck are not unjust in and of themselves, and even if there is an upward limit on sacrifice that no one should be asked to surpass in assisting others (even if they are obliged to bear any burden up to this point). This is because it might be the case that there are foreigners who are not merely worse off in relative terms but impoverished in absolute terms. And relatively affluent persons might not yet have reached the upward limit on sacrifice. Picture a world of autarkies in which there is one society that is uniformly affluent and several others in which everyone is impoverished. In such a world it is clear, I think, that there would be duties to redistribute across borders.

³² R. Miller (2004b, pp. 370–371).

³³ R. Miller (2004, pp. 111–113 and 2004b, pp. 359–60).

Nevertheless, what are we to say in the case where there are needy people both at home and abroad? Might there be a reason to favour the nearby needy over the distant needy—or to favour one’s needy compatriots over needy foreigners—even if more need could be alleviated overall if one did not? Perhaps there is a lexical ordering such that some persons’ needs should be satisfied in their entirety before other needy people are considered at all, or perhaps some people’s needs should be given greater weight in a function to be maximised?

In answer to this question, I claim that there is no fundamental reason why, when it comes to the duty of beneficence considered in isolation, any person’s needs should count for more than any other person’s needs, in either of these senses. Nevertheless, this does *not* mean that that we do wrong by primarily dedicating ourselves towards assisting our compatriots, especially in a world of autarkies. First, there are a range of reasons to think that starting at home *will* be the best way to minimise need overall, if not in our own world then at least in a world of autarkies. In the remainder of this section I briefly outline a variety of these reasons, pertinent both to individual members of primarily (but not wholly) affluent societies and to their governments. More importantly, however, we have duties towards our compatriots, both in a world of autarkies and our own world, that go beyond duties of beneficence (in the sense that if we satisfy these duties our compatriots should be far from needy). Even if a compatriot is *not* needy in absolute terms, we should seek to ensure that they are equitably compensated for the value they co-generate in the market, and receive an equitable net-share of public goods, broadly conceived. In the next and final section of this chapter I consider in more depth what we owe to our compatriots (and *only* to our compatriots in a world of autarkies), and what we are to do if faced with a trade-off that might arise in non-ideal circumstances: when beneficence clashes with duties of equity to compatriots.

Before we move on, however, let us consider a few reasons why it will often make sense to prioritise the needy who are close to us, or who are our compatriots, even if our aim is to alleviate the greatest need overall. Let us start with physical proximity first. For one thing, prioritising the proximate provides a solution to a coordination problem.³⁴ Consider a world of autarkies in which the wealth of individuals is not in lockstep with their society: say forty percent of rich-state citizens are poor and forty percent of poor-state citizens are rich. Further, imagine that, within each society, the rich and poor are not segregated spatially, but mixed together. Assuming that all those who are poor are entitled to assistance: *who is to help whom?*

Obviously, a rule of assistance that answers this question is the following: each affluent individual should provide assistance to those who are close first, before expanding the circle of beneficence if need persists until the reasonable limit of beneficence (as defined by the Principle of Sacrifice) is reached. In the particular version of the world of autarkies just outlined, this rule will only require aid across borders if more affluent residents of poorer societies do not alleviate domestic need themselves and residents of affluent societies have not sacrificed all they are obliged to at a point where all domestic need in affluent countries has been alleviated.

Another reason why it may make sense, for reasons of efficiency, to prioritise those who are physically close is that rendering aid to those nearby is usually less costly than rendering aid to those further away. Imagine that you are living in an affluent society in the archipelago of autarkies. Further, imagine that a minority of your compatriots are in need of basic foodstuffs while every member of a poverty-stricken foreign society are in similar need. Given a reasonable limit on the amount you are required to give (and let us say that giving up to this limit will not alleviate all the need, whether assistance is directed exclusively to those abroad or provided only to those at home) who should you assist? Say that you are in a position to deliver

³⁴ Goodin (1988).

food parcels directly to the domestic needy without any additional cost, but delivering aid to those on an adjacent island is costly: you must expend money and effort to build a raft, and a certain percentage of the food will be lost or ruined during its journey across the sea. In these and similar circumstances, one is clearly better off directing assistance to those who are close. Even if one is obliged to give more than is required to alleviate domestic neediness, it is still sensible to help those who are close first.

A third reason to prioritise the nearby in the interests of efficiently allocating limited aid is that information problems are usually less significant between people who are physically close. When need arises those who are close are more likely to be aware of the nature and extent of the need than those who are further away. Indeed, if a principle of assistance did not require those had *exclusive* knowledge of a certain problem to act, that problem would go unaddressed. Information problems can also arise when determining how aid is to be allocated, even when the nature of need is determined: it often makes sense to privilege assisting those close at hand because one is in a better position to ensure that aid actually reaches its intended recipient and is used for its intended purposes.

Take our archipelago of autarkies: affluent residents of affluent societies are in a better position to judge the need of those who live on the same island as themselves than they are to judge the needs of those they can only see from a distance. They are also in a much better position to ensure that their aid is used for its intended purposes: if they float food parcels to a neighbouring island where some of the residents appear undernourished, they cannot be sure that the few fortunate residents of the poorer island will not greedily snatch the food supplies for themselves.

Fourthly, to the extent that the proximate *expect* to be prioritised, failing to do so adds insult to injury. Imagine that those who are close expect their need to be given greater weight because they believe, rightly or wrongly, that this is the right thing to do. Or imagine that the nearby needy expect to be prioritised because they know that proximity tends to trigger sympathy in a way that distance does not. If one fails to act on beliefs such as these—regardless of whether they are justified or not—there is a fair chance that the nearby needy will feel insulted. Say that I am a very wealthy entrepreneur who lives on the gentrifying edge of a seriously disadvantaged area. Every day I drive my expensive car past boarded-up houses and drug dealers. Further, say that I am not selfish as such, giving away a lot of my money to the poor. However, all the money I give is to foreign charities. Indeed, I make use of tax-code loopholes and offshore tax havens to avoid making a contribution to people living in my community, reasoning that more good can be done overall if all my resources go to persons in poor countries. (Let us put to one side, for a moment, the fact that this might be wrong on the basis that there are distributive duties beyond beneficence that unite compatriots, as I argue in the final section of this chapter.) There is a fair chance, I think, that if I act in this way my needy neighbours will feel insulted.

Now, it is obviously true that the mere fact that someone will feel insulted if I do not act in a certain way is not sufficient to establish an obligation to act in that way. However, in this case, insult might bear on what we ought to do if whether someone counts as needy—as opposed to merely disadvantaged in relative terms—depends, to some degree, on more than merely the value of their holding of material resources. Say that we are to count people as needy if they do not have an effective opportunity to acquire a certain degree of self-respect—say that degree needed to find some fulfilment in those personal projects that they can afford. (The capabilities

approach, for one, would be amenable to such an account of need.) Further suppose that insulting people in the way just described undermines their respect for themselves, such that they can achieve less fulfilment with the same holding of material resources. Then we ought to favour the proximate needy for reason of insult even if our obligation is ultimately to minimise need for requisite sacrifice.

Having discussed a few conditional reasons why it might make sense to prioritise the proximate needy, it should be clear that analogous reasons can be offered that justify governments normally favouring their needy citizens over needy foreigners. First, so doing solves a coordination problem. Even if it were best that, as seems plausible, we delegate much of what we owe on the basis of beneficence to governments, there would still be the question of which needy people each and every government should assist. Clearly, “help your own citizens first” is one rule that would help to ensure that some are not helped too little while others are helped too much.

It is not, of course, the only possible rule (another would be “help the citizens of the country that comes next alphabetically first”). But a concern for efficiency would justify opting for the former rule even if compatriots owed each other nothing more than assistance to alleviate neediness. First, governments tend to face fewer and lower transaction costs when assisting the domestic as opposed to foreign needy. Further, governments are much better placed to overcome informational hurdles with respect to their own citizens than they are with respect to citizens of other countries—particular states possessing a modern bureaucracy. It is much easier for a government to determine who in particular is in need—and what they are entitled to—with respect to their own citizens. Finally, a government is also better placed to ensure that assistance reaches its intended recipients domestically than it is across borders.

In addition, if indeed a certain sense one's own worth is to be counted among the basic needs to which one is entitled, then governments may have to favour their own citizens even if their only role was to minimise need in general. Because the bonds of co-citizenship are expected to motivate help, if someone in need does not receive help from their compatriots they are likely to feel insulted. This insult is greater—when compared to the case in which aid is not rendered by *nearby* strangers—because a failure to provide help in this case represents apparent indifference on the part not simply of an individual bystander, but of a valued collective.

The potential for insult is further magnified by the fact that the state institutions that compatriots share are in a position to ensure that the burdens of providing assistance are *fairly distributed*, at least within that country if not across all non-needy people globally. In the case where someone fails to receive costly help from close-by strangers, the feeling of insult might be diminished if those strangers were in a position to say “why should I help, when others are doing nothing?” Yet governments are in a position to provide assurance to the individual in a position to assist the needy that the burden of doing so will be fairly distributed.

V. Relative Inequality and Compatriots

None of what have said so far has meant to imply that the only duties with distributive implications we might have to others—besides those minimal negative duties of a Lockean kind—are duties of beneficence to persons who are needy in absolute terms. Indeed, in an attempt to refute the claim that putative unfairness between comparable individuals across international borders in a world of autarkies represents an injustice, I implied a number of circumstances that ground additional duties. Clearly, in other words, there *are* cases in which inequalities of brute luck represent a concern from the perspective of political morality. As these

additional obligations are owed to one's fellow nationals *exclusively* in a world of autarkies—if not our own world—I discuss them as obligations of compatriotism here.³⁵

In a world of autarkies, compatriots have distributive duties to one another on the basis of the market exchanges that they participate in. They do not have any such obligations to foreigners, of course, because there is no trade across international borders in a world of autarkies, or even the potential for it. When people trade with one another, they generate new value. After all, trade is mutually beneficial by definition. The question arises, however, how the mutual gain from each and every market exchange is to be distributed. If you employ me to work in your store, how much should I gain as compared to you (net the costs we respectively bear in working, of course)? If you are to employ me, you must be careful not to use me as a *mere* means. You must be careful, in other words, not to exploit me. For if you do so you wrong me—even if, as it happens, I would be worse off without the job. Yet actual consent is no way to judge whether you wrongfully use me or not. In order to avoid exploitation, normally speaking, we must also seek to ensure that the mutual benefit in each and every exchange is equally distributed (even if there will be reasonable disagreement about what counts as an equal share in this context). To do otherwise is to fail to treat one's exchange partner as an equal.³⁶

Even someone who was otherwise a libertarian might accept that one wrongs one's exchange partner if one does not equitably divide any surplus that that exchange generates, while pointing out that enforcing this requirement—were it possible—would do little to address inequalities of brute luck that might arise in a market society (justifiably, in his or her view). This is because, from a certainly perspective that might seem to accord with common sense, that

³⁵ These are obligations over and above existing obligations to provide assistance to the needy. They are thus consistent with the view that “special relationships can increase what we owe to our associates... but cannot decrease what we owe to everyone else”: Pogge (2002, pp. 86–91).

³⁶ For an account like this, see Mayer (2007).

set of potential exchange terms (or prices) that are consistent with what would *be* mutually beneficial are strictly defined by the parties' actual reserve prices.³⁷ And in *competitive* market, both parties' actual reserve prices are whatever the market price already happens to be. To give an illustration: say that the labour market for store workers is perfectly competitive, and the market wage is \$10 an hour. I will not accept anything less than \$10 an hour to work in your store (as there are other employers willing to offer me this), nor will you be prepared to pay me more than \$10 an hour (as there are other potential employees willing to work for this)—at least if we behave in the mode of *homo economicus*. What surplus is there then, to be evenly divided?

Yet his perspective take the wrong baseline for determining what constitutes that range of potential exchange terms that are consistent with mutual benefit.³⁸ If you decide to hire me in your store for \$10 an hour, in circumstances where the labour market is perfectly competitive, it would be outrageous for you to say that you *get nothing* from our exchange (or, indeed, for me to make such a claim). Here I am working long hours, stacking and restacking shelves night and day, and reaping (let us say) a small fraction of your store's profits, and you *get nothing from me*? What surplus is generated in a market exchange cannot be assessed by looking at both party's *actual* reserve prices—even in a perfectly competitive market—for this is insensitive to the nature of the process, and identity of the persons, who are ultimately responsible for generating economic value once contracts are signed and in the exchange of goods.

The baseline that is more appropriate, I think, is one in which we assume that both parties have a monopoly in the good they are providing—or are, at least, the only other persons out there in a position to provide such a good (one might, of course, work for one's self). In other words,

³⁷ Wertheimer distinguishes between an actual reserve price and a morally justified reserve price (1996, 211 – 214). However, he also sees one's actual reserve price in a competitive market as *necessarily* justified. I object to this view for reasons I develop further below.

³⁸ For a position of this kind, see Wolff (1998). Ruth Sample (2003, pp. 16–26) also criticises the view that a competitive market price is necessarily non-exploitative.

the gain to you, as a store-owner, is relative to a scenario in which you have no employees—or no employees doing this particular work—at all. If any shelf-staking is to get done at all, you must do it. And my gain, as a store-employee, is relative to a scenario in which there is no work of this kind available, or no work with so talented a manager, or something of that sort.

This is not a call for us to reflect on what would be a fair price every time we purchase something or sign a contract. Those who do so, at least in a professional capacity, risk being forced out of the market entirely by actors who are more ruthless.³⁹ And the informational burden of attempting to determine what would be equitable in each and every exchange is likely to be significant.⁴⁰ Rather, it is a reminder that there is a relational argument for the claim that a just state would not tolerate market inequalities to become too great that does not resort to talk of a “basic structure”, which egalitarianism’s opponents find inscrutable. An obligation not to exploit is, in many circumstances, appropriately delegated to the state as per a division of moral labour, with what counts as an equal division of the gains of different sorts of exchange left for democratic deliberation to determine.⁴¹

In a world of autarkies, however, compatriots do not merely have obligations to one another beyond those of beneficence on the basis that they generate value together in each and every of their market transactions. My compatriots also benefit me in ways that foreigners do not, even in our own world, via the provision of public goods. So as to put to one side the issue of justification for a moment, call a public good *anything* that either ought to be, or may be, supplied by the state (rather than on the market). Also, assume no peculiar definition of a “public good” (in a non-moralised sense) such that some things a state might justifiable provide

³⁹ Young (2004), Mayer (2007b), Meyers (2007).

⁴⁰ Nozick (1974, pp. 186) may have had this concern.

⁴¹ The claim that duties grounded in our economic interactions ought to be fulfilled politically in pushing for comprehensive and systematic changes in the structure of constraints in which our interactions take place is made by Young (2004, 2006, 2010), Mayer (2007b), Ronzoni (2009) and R. Miller (2010).

will not count as public goods. This enables us to talk of things that must be provided to all if they are provided to anyone (the economist's definition of a public good), goods that advance the actual interests of each and every person (the contractarian's definition), and anything else that might be thought to advance the common good in the same breath.

Now, the provision of any of these goods depends on most people always—or all people generally—obeying the laws that enable these goods to come into being, whether out of a sense of duty or because they are deterred by the threat of punishment. Public goods do not simply arise spontaneously—in the form of positive externalities—as individuals go about pursuing their private interests within a market, non-exploitative or otherwise. Rather, individuals must behave in a way that would not otherwise be in their best interests. This is what makes the public-good-providing state a cooperative scheme in and of itself. To give the textbook example, it is not in any of our private interests to pay a dollar in taxes. Yet if the people as a whole do not contribute a sufficient quantity in tax revenue there could be no public goods.

That the public-good-providing state is a cooperative scheme, then, grounds a duty that all net-gain from that scheme *to an equal degree*, even if it must be left to democratic deliberation to determine what an equal share of net public goods (either considered individually or overall) constitutes. If public goods are not distributed in this way, then the state—or those who get more than an equitable share in public-good terms—are responsible for exploiting those who get less. This is true even if those who get less are better off than they would be if they exited the country (a citizen's *actual* BATNA/reserve price, as a consequence of the state's coercive power). Indeed, this is true even if those who get less are better off than they would be if there were no public goods at all—with the only goods available those that ought to be provided via the market (what we should presumably take as the baseline for assessing each

person's net-gain from public goods if we see things from the moral point of view). This is analogous to the claim that a cooperative transaction or contract in the private sphere—as between store-owner and employee—must entail an equitable division of gain, even if, were it not to entail such a division, both parties would still benefit.

Now, there is the thought that while I might owe my compatriots *collectively* something for the provision of public goods, I don't owe any *individual* compatriot anything (because their marginal contribution to the scheme of public-good provision is negligible). But if I don't owe any individual compatriot anything, then I don't owe my compatriots collectively anything either, as a group is merely the sum of its parts. This would be like the manager of a megastore with dozens of employees admitting that an equitable division of gain, properly considered, would require paying these employees more than the sum of what their wages would be at market prices if only they could be counted a single actor. But as they cannot, and are expendable considered individually, it is permissible to pay each less than without wrongfully exploiting them. Perhaps they need not be paid more than what would constitute a non-exploitative return *if they were the only employee* (allowing the manager to pocket any extra gains due to increasing returns to scale in labour). Or perhaps, indeed, they need not be paid more than the market price (not on the grounds that there are non-employees who would work for that price, but on the basis that they are expendable even if there was no outside labour market as such).

Yet it would be a mistake to reason thus. While a group *is* no more than the sum of its parts, the right way to determine what I owe to a compatriot individually is not determined by imagining circumstances in which that actor did not exist, or emigrated. For reasoning in this way would imply that there might be gains that are rightly credited to cooperation that must

count as something to which *no one* has an entitlement. (Imagine a cooperative endeavour in which *every* actor, whatever their function, is expendable. Wouldn't it be wrong to say that participants in this endeavour have an entitlement to the surplus brought into being by their cooperation that non-participants do not?) Rather, what one owes to each of one's compatriots individually is an *equitable share* of what one owes collectively to all one's compatriots. This duty is appropriately expressed in seeking to ensure (within permissible means) that each net-gain equally from public good provision overall.

So, in a world of autarkies our compatriots benefit us via their cooperation, both in private and public terms (i.e. both on the market and in public good provision). As such we owe them more than merely assistance to alleviate need, which we also owe to those who do not benefit us—including, in a world of autarkies, foreigners. However, this does not exhaust the relational reasons why compatriots might owe one another more than mere beneficence. As noted earlier in this chapter, and in the introduction, scholars of global justice have argued that it is the “coercive” nature of the state (or similar institutions globally) that grounds a concern for relative inequity that would not otherwise exist. While I will discuss this claim more extensively in Chapter 5—where I outline its potential implications for a world trade regime—I will say just a few words here.

Picture a society in the world of autarkies in which there are no political measures in place to ensure that exploitation does not occur, or to compensate people to the extent that they are exploited. For example, there are no workplace regulations, legal or criminal penalties for failures to comply with these regulations, or taxation of gains got by exploiting others. Further suppose that this society has a democratic government, and citizens' representatives have determined what sacrifice is needed on each and every citizen's part to ensure that public goods

are provided. Also imagine that these representatives abide by a democratic norm of deliberation and have determined in their consultations what an equitable net-share of these public goods for each citizen would be. Finally, suppose that while the state engages in exchanges with others (bureaucrats and firms) to ensure that justified public goods are provided, there are no measures in place to appropriate each citizen's fair contribution should they fail to provide it, or to punish them for free-riding. For example, it is left to each citizen to decide whether to mail in his or her taxes.

Now imagine that, all of a sudden, regulations and penalties of the relative kinds are introduced. Why might there be any new obligations purely on this basis? To the extent that citizens of that state exploit others, and free-ride on their compatriots by failing to pay their taxes, state coercion is *already justified* as a means of enforcement (presuming, of course, that the sorts of obligations we are concerned with ought to be legal as well as moral). However, what are we to say with respect to those persons who *would* fulfil their obligations, even if there was greater practical license to escape them? It seems obvious to me, that by being coerced in this way, these persons lose an opportunity to demonstrate their virtue to their compatriots.⁴² To be able to demonstrate your goodwill to others is vital to trust. To the extent that social trust in a society might be necessary, therefore, inequality may need to be further limited. After all, this might be necessary to give the more fortunate reasonable grounds on which to trust their compatriots despite knowing that they could not escape getting away with more due to the state's overwhelming coercive power.

Before moving on to the next chapter, it is necessary to address what we are to say in cases where the demands of beneficence and fairness conflict. There are a variety of ways to characterise such a conflict, and some are more easy to solve than others. For example, if faced

⁴² Here, I draw on Aquinas's defence of private property (2002, pp. 205–220).

with a conflict between helping one person who is needy because I have exploited them (failing to fulfil duties of fairness to that person) and helping another who is needy but whom I have never interacted with before—in circumstances where I have not already sacrificed what the Principle of Sympathy requires of me—I think that most people would say I should prioritise the first person before helping the second. However, what are we to say in a case where, for instance, someone is worse off than they would have been if I hadn't exploited them, but I am no better off because I redistributed the gains acquired from exploitation to the needy? Further suppose that if I sought to compensate the person whom I exploited, without reining back my assistance to the needy, I would sacrifice more than the Principle of Sympathy requires of me.

I will have more to say on questions such as these in the next chapter, but at first glance it seems to me that in *ideal circumstances*—circumstances in which each and every other actor will act so as to do what is morally required of them—duties of fairness take priority over duties of beneficence, in the sense that it would be wrong to exploit someone (even someone who isn't needy) to help someone else who is. Indeed, it would be wrong to do this even if more need could be alleviated overall by so doing. This is because, in the circumstances where others already sacrifice what is required of them for the needy, were I to exploit them I would, in effect, be inducing them to sacrifice more than the Principle of Sympathy demands.

Chapter 2 – A World of Liberal Trading Societies

In the previous chapter, I sought to determine what cross-border obligations of a distributive kind, incumbent on the affluent globally, would exist in a world of autarkies—a world in which there are no ties across borders, including ties of interpersonal trade. In order to isolate the relevant moral intuitions, I modelled our world as an archipelago of self-contained island-societies, and asked the reader to consider whether, in such a world, relatively affluent persons would have an obligation to transfer supplies to the less affluent abroad, and if so, how demanding such an obligation would be.

By way of a response to this scenario, I admitted that such an obligation might well exist, but that there are various reasons to think that the scope of distributive concern does not stretch far across the border such a world. First, in the absence of mutually beneficial transactions across international borders, or some global scheme of cooperation for the provision of public goods, *relative inequalities*—as between two similarly motivated and endowed persons who happen to be members of different societies—may be unfair, but are not unjust. Second, the affluent do have an obligation to assist needy persons—wherever they are located and whatever the cause of their need—but there are limits to this obligation. First, requisite sacrifice is not as great as a utilitarian would posit. While the affluent ought to adopt a disposition that will lead them to sacrifice to this limit, they need not sacrifice so much that the loss in terms of their personal projects and relationships is itself morally significant. Further, when considering which needy persons in particular to assist, there are reasons to favour compatriots, both on the grounds of efficiency and because there are distributive duties *beyond mere beneficence* that unite compatriots.

In the present chapter, I seek to determine what obligations of a distributive kind are grounded on the potential for, and practice of, *interpersonal trade*. In order to pinpoint the relevant moral intuitions, I ask the reader to reflect on a world in which there is at least the potential for exchange across international borders, but which is otherwise similar to the world of autarkies. In order to leave to future chapters a consideration of the moral implications of other dimensions of trade-integration, a crucial feature of this world is that all societies have a *defacto* trade policy that is *laissez-faire* (hence “a world of *liberal* trading societies”). Institutional and intellectual development is not sufficiently advanced to admit policy intervention of this kind. This assumption is only relaxed in the next chapter, where our concern shifts to trade policy for the first time.

In the first substantive section below, I provide a brief description of this hypothetical world. Then, in the remaining sections of the chapter, I articulate what I take to be a reasonable moral response to this scenario; one that provides guidance for our own world. In doing so, I defend an account of cross-border obligations of a distributive kind in which both the potential for and practice of international trade necessarily bears on duties across borders. Most importantly, *duties not to take wrongful advantage—that is, not to exploit—emerge for the first time*. Regardless of whether one’s trade partner is needy or non-needy, one must be sure not to use them as a *mere* means, as to do so would mean failing to respect them as an equal. In normal circumstances, this requires that they reap an *equal* share of the gains of exchange (as I argued in the context of compatriot duties in the previous chapter). Indeed, in the unusual circumstances where one’s trade partner is needy, they have a special claim to an *even greater share* of the gains of trade. Further, in a world where it is possible to trade there is a new means beyond transfer to advance the interests of the needy. The obligation of beneficence itself requires that

these means to be utilised when doing so will enable more need to be alleviated for requisite sacrifice, just so long as the no one's rights are violated—including the rights of the needy not to be exploited.

Because there were duties of beneficence across borders even in a world of autarkies, I actually discuss what bearing the potential for trade has on what is already owed to the needy first. I then move on to a discussion of exploitation. Specifically, this chapter is structured as follows. After defining the parameters of the world of liberal trading societies, in section I specify when trade ought to be preferred to aid in advancing the interests of the needy. Then, in section II, I discuss how it is that the practice of exchange across international borders, even with the non-needy—bears on how need alleviation should be distributed.

In section III, I turn to exploitation for the first time—specifically to the unusual circumstances where one's trade partner is actually in need. I claim here that avoiding using the needy as a mere means in a mutually beneficial transaction might require more than it usually does. This is because needy people who are jointly responsible for producing economic value via their cooperation with others in the market have a special claim to this value that other needy people do not. One should seek to ensure that one's trade partner's needs are satisfied first, even if more need could be sacrificed overall if one exploited them and transferred the gain elsewhere. In section IV, I turn to exploitation proper, arguing that, at a minimum, the fact that less affluent foreigners have poorer alternative options is no reason why they should receive a lesser share of the gains of exchange than they otherwise might. In the final section of the chapter I remind the reader that the global affluent have these duties even if poorer societies are unjust, although meeting them may be more difficult.

A World of Liberal Trading Societies

In the previous chapter, I sought to isolate the intuitions particular to the cross-border bond of common humanity alone. In order to accomplish this, I asked the reader to envisage our world as an archipelago of autarkic island-societies, divided by turbulent waters. Each society was autarkic both in the sense that it was economically self-contained and in the sense that it had its own socio-economic culture and state institutions. Although the islands were sufficiently close to permit some degree of mutual awareness, the waters that divided the societies were sufficiently dangerous not to admit of navigation. Members of one society could float supplies to members of another society on a raft, but trade or migration was out of the question.

For the purposes of the present chapter, however, imagine that circumstances have changed somewhat. Natural climate change has led to a fall in the sea level and a diminishment in the rate of the previously treacherous ocean currents. As a consequence, each of the island-societies has been brought closer to the others, making trade a possibility. Further, imagine that technological improvements—in boat-building and navigation, say—have reduced the costs associated with cross-border exchange, such that on-going ties of trade are not prohibitively expensive. This world—a world in which there is the potential for trade, but no on-going trade as yet—is the first formulation of the world of liberal trading societies that will be invoked in the sections of the chapter below.

The second formulation of the world of liberal trading societies is one in which this potential has been taken advantage of, and trade is taking place. Residents of some of the island-societies occasionally travel to other societies to purchase goods in their marketplaces, and a merchant class composed of members of a variety of societies is established, with traders purchasing goods on one island and selling them on another. Let us even say, perhaps, that this

trade extends beyond material merchandise to incorporate services. Affluent members of some of the societies pay residents of others islands for their productive time and energy. It is useful to include this possibility if we wish to bring to the fore moral judgements relevant to labour outsourcing in our own world.

Nevertheless, as noted in the introduction to this chapter, there remain some significant differences between the world of liberal trading societies and our own world. It is necessary that the world of liberal trading societies depart from our own in these ways if we wish to control of characteristics of our own world that might ground distributive duties of their own. The most important difference from our own world is that each state in the world of liberal trading societies has a trade policy that takes the form, in effect, of *laissez faire*. No state seeks to regulate trade, tax imports, or subsidise exports—either directly or indirectly. This is not because the government of each society has made a conscious decision to pursue such a policy, or because each society has a liberal culture: *laissez faire* is *de facto* rather than *de jure*. Instead, it is built into our model that no other policy stance is a practical possibility.

If this seems like an implausible parameter at first, adopt the following two assumptions. First, take it that state institutions are not sufficiently advanced to admit commercial-policy choice as viable. We have said that each of the island-societies has an associated “state”, but let us suppose that all these states lack the *bureaucratic capacity necessary* to implement a non-*laissez-faire* trade policy. Second, take it the state of *social-scientific knowledge* is not sufficiently advanced to admit of the efficacy of commercial policy, regardless of its ends. Rulers do not realise that developmental, distributive, or other goals might be advanced via trade policy.

That this is a parameter of the hypothetical world on which we focus here should not be interpreted as implying that a perfectly open commercial policy is natural or rational (although it does not deny this either). This parameter is simply put in place in order to more easily exclude moral intuitions that are not apposite to the questions at hand. Intuitions provoked by reflecting on a world in which states have the power to pursue trade policies of various kinds first become relevant only in the next chapter (in which commercial policy is the explicit focus). For present purposes we wish only to rely on those judgements that bear directly on private ties of cross-border trade. Hence we assume that it is not within the power of citizens or their governments to alter whatever trade stance they happen to have. In theory, of course, it is possible to make this assumption without also supposing that all states have *laissez-faire* trade stances. Yet it is difficult to envisage a plausible world of more-or-less protectionist states in which altering trade policy is out of the question. Hence, *laissez-faire* is assumed in the interests of plausibility.

The second feature of the world of liberal trading societies that separates it from our own world is that there is not inter-state bargaining between states over their respective trade policies. This goes without saying, of course, if altering a state's *de facto* commercial stance is out of the question. Nevertheless, it is worth reminding the reader that, when envisaging the hypothetical world that is relevant in this chapter, there is no diplomatic interaction between representatives of different societies, nor the potential for it. It cannot be claimed, for instance, that anything is owed across borders on the basis that there are mutually beneficial relationships of cooperation between states in this world. This parameter is built into the world of liberal trading states so as to exclude moral intuitions that concern bargaining of this kind, which we set to one side until chapters 4 and 5. Of course, if there is no diplomatic contact between representatives of different societies—or the potential for it—there can be no mutually beneficial relations between states

outside the domain of trade either. Nor can there be, in a world such as this, a global politico-legal order of enforcement. As such, there can be no distributive duties on either of these grounds.

Before moving on to the substantive normative claims of this chapter, it is worth saying a few words about migration and immigration restrictions. As I noted in the previous chapter, it is impossible to envisage an even remotely plausible world in which trade is a possibility but migration is not. As such, the reader might wonder what he or she is supposed to imagine the world of liberal trading societies to look like in full. Is this a world of completely open borders, completely closed borders, or one in which each and every society self-determines its immigration policy however it sees fit? If this is a world in which it is at each society's discretion to determine its immigration policy, what should the reader take to be the usual immigration stance? In response to these queries, I think it is best to say that the reader should take it that states in the world of liberal trading societies are like states in our own world: most have the effective capacity to control their borders, all determine immigration policy largely according to what they take to be the national interest, and more affluent societies have more restrictive policies to protect their advantages.

I think it best to assume that the world of liberal trading societies is like our own world in this respect because, despite the abstract nature of much of the analysis in this dissertation, I ultimately intend to be able to provide guidance to policy makers in our own world. I don't think that it is necessarily true, either, that taking the state of migration relations as being the same as in our own world will mean that my ideal theory must be biased towards the *status quo*. Indeed, I think that the opposite may well be the case. Because trade and migration are, in large part, economic substitutes, it may well be that the barriers to migration that I imbed in my

hypothetical worlds here are counterbalanced as obligations in the domain of trade are more generous than would otherwise be the case.

Of course, the reader is free to make a different assumption if they wish: they may wish to suppose that there is *justice* in the domain of migration, whatever they take this to entail. If this means, say, that no person who is able to find employment or buy property in another country should be prevented from migrating, so be it. Adopting this assumption may mean that some of relations with which I am concerned in the remainder of this dissertation take on a different light (in moral terms). But I leave this to the reader to judge.

I. Beneficence in Trade

Having outlined the relevant hypothetical world—which should be envisaged as generating judgements that drive the claims to be made in the remainder of the chapter, and which the reader should test these claims against—I turn first to a discussion of beneficence. My primary claim here is that it is permissible to use trade to benefit the needy, as part of fulfilling one's obligation of beneficence, as long as one does not use the refusal of exchange opportunities offered as a reason to limit one's sacrifice overall, or exploit needy people in the process. Indeed, one ought to favour expressing beneficence via trade rather than transfer—within to these constraints—to the extent that trade enables more need to be alleviated for the same sacrifice. While it is true that the primary purpose of the present chapter is to determine what cross-border obligations are generated *by* trade, if we were only to focus on this question, we would have forgotten a necessary preliminary. Besides the question of what obligations are grounded by trade—i.e. grounded on permissible economic ties of a voluntary and mutually beneficial character—there is also the following: are ties of trade ever *themselves* obligatory?

The relevant formulation of the world of liberal trading societies to keep in mind when addressing this question is, of course, the first—the formulation in which there is the *potential* to establish trade ties across borders, but no trade as yet. This focus is not meant to imply that the extent and pattern of trade integration has no bearing on beneficence. Indeed, in the next section I discuss how existing ties of trade—including ties to non-needy foreigners that are not necessary to further any duty—shape how need-alleviation for requisite sacrifice is to be distributed. Rather, the purpose of focusing on the first formulation of the world of trading societies is to exclude intuitions that are extraneous to the question at hand.

It will be recalled that the only cross-border obligation of a distributive kind that might pertain in a world of autarkies was the obligation of beneficence. As such, if there *is* a duty of exchange in the first formulation of the world of liberal trading societies, it too must fall under beneficence. This is because the only difference between the world of autarkies and the first formulation of the world of liberal trading societies is that the latter entails the potential to establish ties of trade, while the former does not. As such, the first thing to note is that is no duty to trade with foreigners simply because they are relatively worse off—even if they are relatively worse off purely as a consequence of where they happen to have been born. Because those who are relatively worse off have not been harmed by the affluent, and cannot claim to have been insufficiently benefited in cooperative relations with them, there is no basis on which someone who is worse off than a similarly endowed and motivated foreigner can claim entitlement to a trade opportunity.

In the world of autarkies the only means to alleviate the needs of foreigners was via international aid. In contrast, in the first formulation of the world of liberal trading societies there are two options for alleviating the needs of foreigners: besides transfer there is also the

option to trade. The question, then, is the following: to the extent that we are required to advance the interests of the foreign needy—perhaps because few of our compatriots are needy, despite reasons to favour them when distributing a limited amount of assistance—is trade a permissible means to fulfil this duty? After all, it might be thought that utilising trade as a means to alleviate the needs of others is inappropriate as an expression of beneficence. After all, if you owe something to another person on the basis that that other person is entitled, by right, to have that thing, isn't it impermissible to provide that thing only in exchange for a benefit to yourself?¹ To argue from analogy, consider a different obligation: the obligation not to violate the bodily integrity of others. If such an obligation exists, it is, presumably, impermissible for me to demand payment from others—in what would amount to protection money—in return for not assaulting them.

Running a protection racket is wrong on at least two grounds: first, it makes the fulfilment of an unconditional obligation conditional. If an obligation to respect the bodily integrity of others is a binding constraint on what I may permissibly do, I may not assault *anyone*—including those who refuse to pay me protection money. When I fail to respect the bodily integrity of those who refuse to pay me, I both sacrifice less than the obligation demands of me (assuming I gain from assaulting others) and distribute its fulfilment across persons in an arbitrary manner. Second, running a protection racket wrongfully worsens the conditions of those who do pay up, even when their bodily integrity is not violated. On one account they are harmed in a manner that constitutes an effective violation of bodily integrity (at least in the limiting case where they pay an amount equivalent to the disvalue inherent in being assaulted).

¹ For circumstances in which conditional offers ought to be taken as “coercive” [I would often say “exploitative”] see Lyons (1975), Zimmerman (1981), and Stevens (1988).

On another account they may not have their right to bodily integrity violated, but they have another right violated that mutually supports the right to bodily integrity: the right against theft.

So, one problem with expressing beneficence via exchange might be that doing so would entail making beneficence conditional. Of course, often obligations are conditional by definition: consider an obligation of gratitude that requires expression only when one is benefited in the appropriate way (and not otherwise). What exactly is required in expressing gratitude depends on how exactly one is benefited, and gratitude is only owed to those who provide a benefit (and not to others). Indeed, even beneficence is conditional in a distributional sense: it is only owed to persons who are absolutely needy (and not others), with further reasons to favour some needy persons over others (as discussed in the previous chapter). But, crucially, beneficence is not conditional in the sense of how much sacrifice it requires of us (as long as there are still some persons out there who stand in need). The Principle of Sympathy does not permit one to sacrifice less, for instance, merely because one thinks that the needy are stubborn in refusing one's offers to trade.

Yet it is possible to admit both (a) that one may not limit the sacrifice entailed in fulfilling an obligation to others by attaching a condition to the fulfilment of the obligation that is not entailed by the obligation itself, and (b) that one may not leave another worse off than if one had fulfilled one's obligation to that person unconditionally, while maintaining that beneficence can be appropriately expressed via trade rather than transfer, within certain parameters. Regarding proposition (a): it is perfectly possible to take part in exchanges with the needy, as part of a package of efforts to alleviate neediness, without making the extent of one's sacrifice for beneficence *in the aggregate* conditional on receipt of benefits. As long as one sacrifices sufficiently *overall*—filling out one's bundle of efforts by providing transfer aid to the needy

where trade is not a possibility, and trading at “loss-making” prices if need be—one can still satisfy our the demands of the Principle of Sympathy.

As regards (b): beneficence is owed to needy people *in general*—not to any particular needy person, at least before we take into consideration relational reasons to favour some needy persons over others (as when one owes someone who is, or would otherwise be, needy more than mere beneficence as a consequence of co-cooperation). Not to advance the interests of a particular needy person because they do not have any good or service that you want to buy does not imply that, if one does not trade with them, one leaves them worse off than they would have been if you had done all that beneficence required of you unconditionally. For if trade as a means for advancing the good of the needy was off the table entirely—and transfer was the only means to render assistance—there is no guarantee that they would be any better off. Again, this is because beneficence is owed, in the first instance, to needy people *as a whole*.

But having established that exchange is not impermissible as a means of alleviating need (as long as one does not use the refusal of exchange offers to unjustifiably limit beneficent sacrifice) an additional puzzle remains: how should the gains of trade be distributed when the needy *are* chosen as trade partners? Say that, in an attempt to fulfil what beneficence requires of me—or, indeed, in pursuit of my self-interests—I purchase goods from needy people rather than others. However, I do not pay these needy people a very good price, reasoning that more need can be alleviated overall if I transfer the gains I make in these exchanges to other needy people (say the *most* needy, or those who live in my community, or something of that sort). Might it still be the case that I wrong those needy people whom I trade with? In other words, does a needy party to exchange have a special claim on the mutual benefit generated in that exchange, or any other entitlement, that their exchange partner must satisfy before considering others?

In response to this query I would argue in the affirmative. It is permissible to utilise trade in fulfilling beneficence, but one must show special concern for one's needy trade partners. This is for three reasons: first, even the non-needy are entitled to a non-exploitative return on trade (as I discuss in section IV below). That one uses the gains from exploitation to assist others is not normally an excuse for violating another's entitlement (just as stealing from someone in order to alleviate the need of someone else is not normally justified). Second, when one's trade partner is needy, a non-exploitative return is greater than it otherwise would be (as I discuss in section III below). Needy persons have a special claim on the gains that they are partially responsible for generating that unrelated others do not. Finally, reasons of efficiency justify favouring one's trade partners over other needy strangers (discussed in section II below). These reasons might provide some basis for rendering needy trade partners an even greater gain than the unusually generous non-exploitative return to which they are entitled because of their circumstances.

So, it is permissible to utilise trade as a means to advance the interests of the needy as long as one does not use the absence of trade opportunities to arbitrarily limit one's sacrifice and as long as those needy people whom one does trade with are favoured (over other needy persons) in the relevant way. However this is putting it too mildly. It is not merely *permissible* to use trade as long as these two constraints are satisfied. The right interpretation of the Principle of Sympathy implies that one *ought* to utilise trade rather than transfer, just so long as this proves more effective at alleviating need for requisite sacrifice. Now the extent to which trade is a more effective way of addressing people's basic needs—within the two side-constraints just outlined—is an empirical question outside the remit of this project.² Nevertheless, there are

² For a discussion of this literature see Hassoun (2012, pp. 149–159). Hassoun notes that there is scholarly disagreement about the extent to which *free* trade is good for poverty-alleviation, particularly when other ways of structuring trade are possible. She also notes that regardless of what measure of poverty is used, the evidence indicates that the impact of trade liberalisation for the poor has been mixed.

some theoretical reasons to believe that there will be circumstances in which trade is preferable to aid.

First, trade has a tendency to empower the poor in a way that aid does not. Gaining via work rather than transfer (even if the net benefit in the short run is equivalent) provides the needy with practice at exercising their skills and tends to entail the transfer of norms and information that are conducive to productive efficiency. It would also seem to be the case that gaining via work rather than transfer provides the needy with the fundamental good of self-respect—a good without which they could not take pleasure in those projects that are expressive of them, even if they could be afforded. Thirdly, to the extent that international aid must flow through potentially corrupt governments, advancing the interests of the foreign poor via trade better ensures that the gains are experienced by those who are directly entitled to them. Finally, there is some evidence in behavioural economics to suggest that benefits received for a price are better protected by their recipients than benefits without a price, as people tend to perceive things that are “free” as lacking in value.

It is also important to note that trade generates more resources to be dedicated to need alleviation. Providing transfer aid to the needy inevitably eats into the fund at the disposal of the affluent to devote to their own projects, whereas providing help to the needy via trade does not. Even expressing beneficence by trading on non-exploitative terms—term that, as I argue in section II below, minimise need—does not draw on the background funds that the affluent possess. This means that beneficence can stretch further.

II. Trade and Distributing Beneficence

In sections III and IV of this chapter, I argue that trade—voluntary and mutually beneficial exchange—itself grounds duties that would not otherwise exist. When I trade with someone I

establish a relationship with them that is closer than that which would exist if we were merely aware of one another's circumstances and in a position to assist. Persons whom I trade with benefit me. Indeed, they do not *merely* benefit me. They act so as to benefit me when—were I not to fulfil my end of the bargain—they would act in a different way. In benefiting me, in other words, my trade partners act contrary to what they would otherwise *will*. This immediately raises the worry that there might be circumstances in which I could rightfully be accused of *using* my trade partner. Let us put to one side for a moment, however, the issue of what our trade partners—needy and non-needy—are entitled to. Even if our trade partners did not have special entitlements on the basis that their cooperation with us is responsible for generating some social surplus, the scope of distributive concern would stretch further across the border in a world of liberal trading societies than it would in a world of autarkies. This is because those reasons to think that it is normally most efficient to satisfy the needs of one's compatriots first are counterbalanced by different reasons of efficiency.

First, “help those with whom one trades with first” would seem, on the fact of it, to be just as good a solution to the global coordination problem—the coordination problem that arises when there are many needy people and beneficence is owed, in the first instance, to them collectively—as any other. Of course, a concern for efficiency in general might give us cause to adopt another rule for coordinative purposes. Yet if we reflect on a relatively integrated world of liberal trading societies there is no *a priori* reason to favour “help the proximate first”. If transaction costs—in transferring aid to a person entitled to assistance or otherwise alleviating their need—depend on proximity, they also depend on whether or not you are already in an economic relationship with that person. Consider a case where an affluent person in the world of liberal trading societies purchases goods from a needy foreigner. The fact that he or she is

already paying that foreigner implies that any additional transaction costs in paying that person *more*—in order to better address their needs—are negligible. As such, paying them more may well mean a lesser loss in terms of efficiency than paying them less and instead providing transfer aid to those who are proximate. Similarly, while it tends to be the case that one is better able to judge the needs of persons depending on how close they are to you—and to better ensure that their needs are actually met—this is not always so. In our own world, it may well be that an executive of a multinational corporation who lives in New Jersey is in a much better position both to judge the needs of employees in Thailand, and to meet these needs, than he or she is with respect to a needy person in Pennsylvania. Finally, if a certain sense of one's own worth is to be counted among a person's basic needs, and failing to be compensated in trade to a degree one thinks sufficient leads to a big enough loss in terms of this sense, then giving some extra weight to the interests of those with whom one trades is justified even if they are a member of a distant society.

III. Favouring Needy Trade-Partners

In section I of this chapter, I argued that trade potentially represents a permissible expression of the obligation of beneficence; indeed, an expression that there are reasons to favour on the basis that trade tends to empower the needy, and better increases the resources at the disposal of the fortunate to alleviate need in general. However, I also argued that it is only permissible to include exchange in a bundle of efforts to help the needy as long as the following two conditions are satisfied. First, one may not make the extent of one's sacrifice to alleviate need as a whole dependent on the extent to which trade opportunities offered to the needy are taken up. Even if one can achieve the same need-alleviation with lesser sacrifice by trading rather than providing

aid, this does not mean that one may cut back on one's overall sacrifice as long as need persists. To the extent that exchange opportunities are absent, transfer continues to be the appropriate expression of beneficence, and one must sacrifice up to the maximum embodied in the correct principle of beneficence, unless all need is alleviated before one reaches this point. Second, one must favour those needy persons one trades with over other needy people. It would be wrong, for instance, to drive excruciatingly hard bargains with some needy people simply because more need could be alleviated if the gains of those bargains were transferred to others elsewhere. For this would be to *exploit* the needy—to use them as mere means.³

Why might it be necessary to show this favour? In the previous section of this chapter, I provided one answer to this question, but the reasons I offered were conditional and not sufficient to justify favouring one's needy trade partners in the full sense I mean to invoke here. Why might some needy people be *entitled* to something—as a matter of right—that other needy people are not? And what would be the basis for a claim like this? Part of the answer to this question was provided in the final section of the previous chapter and is reiterated in section IV below. According to the position I seek to advance in this dissertation, when two actors cooperate with one another, each of them is entitled—in normal circumstances at least—to an *equal* share of the gains resulting from that cooperation. This is as true with respect to a discrete trade—even if the duties grounded on this relation are often better delegated to institutions—as it is with respect to larger and on-going schemes of cooperation. And it is equally true with respect to trade across borders as it is with respect to trade between compatriots. Indeed, it is hard to see what other principle would reflect the equal moral worth of persons, even if there is likely to be

³ The term “exploitation” is sometimes used to refer to harmful, fraudulent and/or coercive interactions. However, here I use it to refer to exchanges that are both genuinely beneficial to both parties (relative to the *status quo ex ante*) and voluntary (once parties to exchange with greater power act on the understanding that any gains they might co-generate in exchange must, morally speaking, be equitably divided).

reasonable disagreement about what would constitute an “equal” share that cannot be resolved prior to democratic deliberation.

To the extent then, that the needy are poor because they receive a less than equitable share of the gains of trade, they are wronged even if they are benefited. They are *entitled* to an equal share of the social gains that they are part-responsible for producing in the market. To appropriate these gains in the interests of minimising need overall would be like stealing from one needy person to assist two others who are themselves in poverty. Indeed it would *be* stealing from one needy person in order to help two others (albeit via exploitation rather than coercion as a means). I take it that all but the most dedicated act-utilitarian admits that morality entails side-constraints. The libertarian, for example, is particularly concerned that no person be treated in way that they do not *actually* consent to—regardless of how much better the state of affairs might be if this constraint was violated.⁴ My account is not so different. However, I do not take *actual* consent to be sufficient—at least when it comes to the weak—to establish that someone has not been treated wrongly. One can benefit and still be wronged if one is exploited. Cooperative relations call into being an *additional* side-constraint: one that is violated if a party to cooperation does not receive an equitable share of the resultant gains.

Now, there may be circumstances in which it is acceptable to exploit someone in order to assist needy strangers. Say that you are very wealthy, and you do not live your life according to the Principle of Sympathy. Indeed, you do not sacrifice *anything* for the needy. It might be that in a case such as this it would be permissible for me to exploit you, at least if this would leave you no worse off than if you *did* sacrifice sufficiently for the needy (and I did not exploit you), and I transferred the benefits gained in exploitation to those needy people who were actually entitled to them. But this non-ideal scenario is not the sort of situation we are dealing with here.

⁴ This is, of course, Nozick’s (1974) position.

When I trade with someone who is needy, they are under no obligation to help others, and ought, indeed, to be an object of beneficent concern themselves. So it could never be claimed that exploiting them in order to alleviate greater need overall was merely a means to ensure that all persons sacrifice to the degree required of them.

I will have more to say about what all individuals—whether needy or non-needy—are entitled to on the basis of the cross-border exchanges in which they take part in section IV below. However, the reader might wonder if the needy are entitled to *more* than merely an equal share of the gains of trade (accepting equality as the benchmark for the time being). Say that I purchase something from someone who is in desperate poverty. Mindful not to exploit, I pay them more than the minimum I would be able to get away with if I was only mindful not to violate their Lockean rights. But what if this leaves them little better off than they were before? This might well be the case if what they provide me with—say a crudely made tourist trinket—is of so little value to me that I could do without any goods of a similar kind ever and not think myself more than infinitesimally worse off. Further, because what I provide this needy person with is of such great value to them (say they would die without tourist dollars), an equal division of the gains of exchange would leave them little better off *even if I valued the trinket more highly*. Sure, a concern for most efficiently meeting need for requisite sacrifice might justify prioritising this person over some other needy person. But then again, it might not.⁵

In response to this worry, I would posit that there may be grounds to think that, when one trades with someone who is needy, avoiding exploiting them requires more than it would if they

⁵ This is a particular problem with Bob Goodin's account of exploitation, which he identifies as a situational wrong in which someone plays for advantage rather than responding to the vulnerability of another in the appropriate way, as by rendering assistance—see Goodin (1985, pp.32–38, 1987). Because Goodin argues from utilitarian premises, he leaves open the possibility that it is *not* wrong to fail to appropriately respond to the particular vulnerability of someone who is dependent on me if more need can be alleviated overall in some other way—for instance, by exploiting one needy person in order to better assist two others in need. For this and other criticisms of Goodin's position, see Sample (2003, pp. 39–54).

were not in need. Specifically, in the circumstances where one party to trade is needy—and would be needy even if gains were equally distributed—a more than equal return is necessary to avoid the charge that one is using one's trade partner as a *mere means*. Indeed, I think it reasonable to say that if an equal division of gain with one's trade partner would still leave them needy, they are entitled to whatever further share of the gains of trade is necessary to minimise need.

This principle proceeds from the judgement that needy people have a special claim over the gains that they are *partially responsible for creating*—via cooperation with others on the market—that non-needy others do not. Imagine that you live in a state of nature, and cooperate with a number of others in farming a particular area. Further suppose that each person in this group works a similar number of hours, and functionally differentiated tasks are rotated among the members of the group such that it cannot be said that one person's work is more burdensome than that of any of the others. Also suppose that, come harvest time, the grain that has been grown is equally divided among the group. Now, normally speaking, I think, this would be fair. But what if you had an inherited illness, which meant that you needed much more grain to achieve the same level of functioning as your peers? Indeed, what if you needed at least somewhat more grain to satisfy your *basic needs*?

If the reader is tempted to think that anything that might be owed to a needy person in such circumstances would be owed on the basis of beneficence—and that an equal division of the grain would not be unjust in itself—we can accommodate this thought while still maintaining that a needy person has a special claim to any economic gains he or she is responsible for generating that outside others do not.⁶ Say that once the grain in our example is equally divided, all other members of the group—apart from yourself—are well enough off such that they ought,

⁶ This seems to be Jeremy Snyder's (2008) position.

under the Principle of Sympathy, to give some of their grain to the needy. Now imagine that there are two outsiders in the state of nature who are, through no fault of their own, just as badly off as you are with only your equal share of grain. Further suppose that your partners in cooperation can either help both of these outsiders or help you; were they to do both they would sacrifice more than it is reasonable to demand of them. I think there is a fair chance the reader will be tempted to think that your partners in cooperation should help you.

When one's trade partner is needy, then, they are owed more than merely the minimum price that they would acquiesce to. And it is easy to see why people might frequently fail to fulfil this duty. Needy people are uniquely vulnerable in their economic relations. Their lack of resources places them in a position where they can ill afford to abstain from trade, either in a particular instance or good, or overall. In contrast, the affluent can always walk away from a putatively beneficial trade opportunity, reasoning that enough of their wants are satisfied already. The needy are also in a weak bargaining position to the extent that their poverty impacts their market power. Unlike the affluent, they cannot afford to delay in order to shop around amongst alternative opportunities, or in order to put pressure on potential trade partners to compete with one another. Finally, the needy are uniquely vulnerable to the extent that their poverty is a consequence of their lack of alternative market opportunities. This means they will acquiesce to exchange terms that do not reflect an even minimally equitable division of the gains that would be generated if they did trade.⁷

⁷ The point that market outcomes might be undermined by a deficiency in consent—within a particular transaction rather than over the social structure as per the social contract tradition—has often been made. Debra Satz (2010) has labelled this the vulnerable objection. Sandel (1998) calls it, less helpfully perhaps, the coercion objection.

IV Exploitation

Thus far in this dissertation I have considered only cross-border obligations that are owed to those who are needy in absolute terms, and not obligations to anyone else—including those who are worse off merely because they happened to be a member of one society rather than another. This is because there are no obligations of the latter kind in either the world of autarkies or the first formulation of the world of liberal trading societies. As I have noted previously, this is for three reasons. First, in neither of these worlds do individuals or states exercise force across the border, or adversely impact other societies through negative externalities of an economic or environmental kind. As a consequence, no person in either the world of autarkies or the first formulation of the world of trading societies is worse off than they would be if no other society existed, and therefore no one can justifiably claim to be owed anything by way of rectification. Second, in neither of these hypothetical worlds is there cooperation across the border, either between individuals—in the form of market exchanges—or between states. Indeed, the latter is not even a possibility. As such, there is no basis on which an individual or government might claim that, while they have not been harmed, they *have* been taken advantage of. Finally, there is no comprehensive politico-legal system globally to ensure that people are legally deterred from committing wrongs. The de facto global political order is self-sustaining, as it were.

In the second formulation of the world of liberal trading societies, however, circumstances are different. It remains the case that there is no comprehensive politico-legal system globally, nor any international institutions that might share relevant features with such a system. However, there are cross-border interactions between individuals. Specifically, and in contrast to the world of autarkies and the first formulation of the world of liberal trading societies, there is interpersonal trade between members of different societies. In this context,

international inequalities are not purely a function of the separate development of separate societies. How well off any particular individual is depends, at least in part, on the particular exchanges that that person has engaged in, and the terms of those exchanges.

Now, there is no reason to think that, simply because there is now trade across international borders, some patterned conception of distributive justice ought to be implemented globally, as a Rawlsian cosmopolitan might maintain. To see why, imagine that two societies in the world of liberal trading societies are extensively trade-integrated (indeed, fairly trade-integrated, such that no person receives less than an equitable share of the gains of exchange). However, there is a minority in both societies who do not participate in trade. Now, if we were to compare similarly endowed and motivated members of these two minorities, and were to happen upon putatively unfair inequalities, it is not clear how the fact that some *other* people trade with one another is meant to be morally relevant. If, in other words, the fact that someone is worse off than a similarly motivated and talented member of another society does not represent an injustice in the world of autarkies, it is unclear why it would represent an injustice in a world in which *some* people trade across borders, but not the particular persons we are comparing.

It is not clear, either, that the fact that two persons *do* trade with one another establishes some duty to neutralise brute luck. Say that I employ in my business someone who is very similar to me, but, as a consequence of a sudden illness when they were younger, they had to drop out of university and never completed their degree. Further, say that if they *had* completed their degree, they would have been a manager themselves. However, as they did not, they are only qualified to work in a role that is normally less well-paid. Now it doesn't seem evident to me that simply because that person is no less motivated or (inherently) talented than I am—but

not in a position to effectively work in a greater role—I ought to pay them more than I otherwise would (indeed, more than me, presumably, given that they work in a less fulfilling role).

However, I *do* think that trade grounds obligations that would not otherwise exist—obligations that unite parties to trade even if they are members of different societies and even if no one is in absolute need. I gave a sketch of these obligations and their basis both earlier in this chapter and in discussing duties among compatriots in the world of autarkies. Specifically, I claimed that when two actors trade with one another, the gains of exchange ought to be *equally* divided, on pain of exploitation. In other words, it is still possible to wrong one’s trade partner even if you benefit them just so long as they are not adequately compensated.

Now, in one sense people who trade “use” or “exploit” one another *whatever* the terms on which they exchange.⁸ After all, by definition trade is a largely impersonal means by which strangers might advance their respective self-interests. And it not as if the trade relation is something of value in itself, as personal relationships—as with family, friends, and even colleagues—might be thought to be. But we usually distinguish between a transaction that is *merely one of* use and a transaction that is one of *mere use* (to employ the language of Kant’s categorical imperative). Or we make a distinction between a transaction that is one in which I exploit *an opportunity* to trade, and one in which I exploit *a person* when trading with them.⁹ The question remains, however, where to draw the line between the two.

At first glance an appealing way to distinguish between the two is to say that as long as one’s trade partner voluntarily assents to particular terms, those terms cannot be wrongfully exploitative—whatever the background circumstances happen to be.¹⁰ But this is not adequate.

⁸ Sample (2003, p. 12).

⁹ For distinctions of this kind, see O’Neill (1985), Goodin (1987), and Wood (1995).

¹⁰ Alan Wertheimer (1996) claims that the *competitive* market price is necessarily non-exploitative—arguing that it is important to distinguish between exploitation and “background injustice”. This approach is in obvious tension

Someone might assent to a particular trade and still be wronged. Surely I wrong someone if I fail to net-benefit them when we trade—say because they are irrational or ill-informed—regardless of whether the exchange was voluntary or not. So, one might think that there are actually two conditions that must be satisfied if an exchange is to avoid the charge of exploitation: first, both parties must actually consent to the transaction; and second, both parties must actually gain. I don't take that this to be particularly controversial. Indeed, it is a necessary first step in developing the account of the distinction between permissible exchange and wrongful exploitation that I offer here.

Yet we are not all the way there. Even a libertarian would accept a duty to fulfil whatever exchange terms parties to trade happened to agree to. Indeed, they might also accept that one must actually benefit one's trade partner, in the sense of leaving them better off than the *status quo ex ante*. To the extent that a libertarian is concerned about blackmail they are concerned about this. But the duty a libertarian would accept is not nearly as generous as the one I mean to invoke here. If a duty to abide by agreed trade terms—whatever those terms happened to be—was all that trade grounded, it would not make much sense to say that trade-integration expands the scope of distributive concern. There wouldn't be any basis, for instance, on which we could criticise trade in our own world, except to the extent that it results in environmental damage or generates other harmful side-effects that ought to be rectified. Yet besides a duty to abide by fair terms, there is the prior question of what *counts* as fair terms.

with the relational perspective I pursue here, according to which whether or not there *is* background distributive injustice is a function, in large part, of whether and the extent to which people are and have been exploited. Hillel Steiner (1984, 1987) has argued for the market price (whether arrived at in a *competitive* context or not) on libertarian grounds. He argues that exploitation occurs only if the price deviates as a consequence of violations of negative rights (as when, for instance, you are only able to employ me for a lower wage because you successfully coerce your competitors into withdrawing their wage offers). In response, I argue that the price is still exploitative if it deviates as a consequence of violations of “positive” rights grounded on relations. David Miller (1987) argues for the market price on a conventionalist basis.

Where my account of the distinction between trade and exploitation differs from the libertarian account is in the baseline that I would use to determine whether, and the extent to which, each party gains from trade, and in the following additional stipulation: at least in normal circumstances, the gains from trade must be equally divided, even if there are some other terms on which both parties would agree. Many scholars, not merely libertarians, tend to take the alternative course of events had a particular exchange not occurred—assuming that no one's Lockean rights are violated during that course of events—as the appropriate baseline from which to assess trade gains. They take, in other words, an actor's actual reserve price or BATNA as the point from which to determine how much they would gain from exchange on a certain set of terms. But for reasons first addressed in the previous chapter, this is inadequate.

Consider again the example in which I work in your store for the market wage. While I am undoubtedly better off than if I would be if didn't have a job (the *status quo ex ante*)—and at least no worse off than I would be if I worked elsewhere (the alternative course of events)—it isn't clear to me that you don't exploit me. Say that if you were prevented from employing anyone in your store, and had to undertake every task yourself, you would barely be able to cover your costs. However, with me stacking shelves you are able to make a tidy profit. Now, it isn't clear to me that \$10 is *necessarily* a reasonable return. Although there is someone else out there willing to work for this wage—and in this sense you would be worse off if you paid me more—as long as *I* am the one stacking the shelves this seems beside the point. The point is that even if you paid me more you would still be better off than if you employed no shelf-stacker at all.

Now, when one looks at things this way, there is always going to be a *range* of potential treaty terms that are consistent with mutual benefit, and which might potentially be consented

to—even in a perfectly competitive market. The question is, which of these terms represents equitable terms? On the basis that persons are moral equals, the most reasonable thing to say is that those terms should be selected that represent an *equal* division of the net-gains of exchange, at least unless there are some special circumstances that would justify some other distribution (as would be the case if one party was needy, or so I argued above).¹¹ Why should it be, for instance, that how much one party gains relative to the other depends on how aggressive that person is in bargaining?¹² Or why should it be that one party reaps a greater share of the gains of exchange merely because they have relatively greater market power? Indeed, even if neither party has market power—as the market in which they operate is competitive—why should it be that how much you or I gain when trading with one another depends on the worse terms that some outsider would accept? Thus, at least when one views things from the perspective of the less-advantaged party to exchange, actual consent is insufficient to establish that a benefiting exchange is non-exploitative.

I do not seek to definitively define what would constitute an equal division of the gains of private trade here. Indeed, I suspect that this is not a matter that ought to be resolved prior to democratic deliberation in some appropriate forum. Nevertheless, I do think it is important to say a few words concerning alternative interpretations of equality in this context, not least to remind the reader that accepting that trade gains should be “equally divided” is only a first step. First, we should be clear that we are taking about *net* gains. When I work for you I endure the

¹¹ That an equal division is that division that best reflects the moral equality of persons—rather than merely representing an obvious focal point in bargaining—may be so obvious as not to require a defence. James (2012, pp. 135–138) briefly discusses the appeal of equality on deontological rather than consequentialist grounds in *Fairness in Practice*.

¹² Even contractarians have resisted the thought that, when there is some social surplus to be divided—as, for the libertarian, in cases where there is imperfect competition, or market failure requires non-excludable goods being supplied in some other way—that a defensible bargaining outcome is whatever it happens to be. An underlying concern for fairness, for instance, appears to motivate David Gauthier’s (1986) development of minimax relative concession. A philosophical worry about interpersonal utility comparisons alone would be insufficient to justify this discussion given Gauthier’s central aim: to arrive at a moral theory on the basis of collective self-interest alone.

burden (presumably) of shelf-stacking. But how much of a loss are we to consider this to be? The fact that there are likely to be some jobs that are more enjoyable and fulfilling than others—indeed, perhaps some jobs that it might be worth *paying* to do—complicates matters considerably.

Second, even were we to focus exclusively on the benefits of trade—those that must be weighed against costs (and contrasted with the baseline established above) to determine how much anyone net-gains in exchange—there would still be the problem of what metric to employ. Should we use the market value of these benefits, or some other metric? Say that you employ me in your store and, at the end of the year, I take home \$40,000 while you take home \$60,000. Is this inevitably an unequal division? Say that members of your close family live in a number of different countries, such that if you want to maintain the sort of close relationship with them as I do with my family, you have to pay out several thousand dollars each year to pay for flights. In a case like this you might argue that an unequal division in terms of dollars is actually an equal division in terms of *welfare*.

On the other hand, say that even at the beginning of this year you were exceedingly wealthy, while I was rather poor. As a consequence of diminishing marginal utility in income, it might be thought that a 40/60 division is an equal division even if I have *less* expensive preferences than you. For every extra dollar that I get this year is worth less to me (on account of my already abundant wealth) as it is to you. Considerations such as these would point towards using utility as the metric on which to equally divide trade gains rather than dollars (either by directly comparing persons' wellbeing or via the method of David Gauthier's minimax relative concession).

So, trade across international borders in the world of liberal trading societies expands the scope of distributive concern by grounding an obligation—incumbent on affluent parties to trade and owed to the particular foreigners with whom they trade—to equally divide the gains of exchange. However, the reader does not have to accept that trade gains (i.e. gains relative to the baseline discussed above, not each party's actual reserve price) have to be *equally* divided to accept that there is something about trade in our own world that is unjust. Even if one thinks that various of one's compatriots are fairly benefited in the market without receiving a return that reaches the threshold of equality I am in favour of, there would still be cause to wonder why it should be acceptable for foreigners to receive *less* than compatriots in otherwise similar exchanges.¹³ Why should it be, in other words, that a foreigner is paid less for the same work than an equally hard-working and talented compatriot, merely because there are fewer and worse alternative opportunities for a livelihood in the society in which he or she happens to have been born, or because that foreigner must compete with a multitude of others in a way that my compatriot does not? Isn't it wrong, in other words, that someone receive less than an equal share of the gains of exchange merely because of where they happen to have been born, even if such a shortfall on other grounds would pass muster?

Consider again the case of two persons, equally talented and with the same desires and work ethic, but reaping unequal returns due to the fact that each happens to belong to a different society. Perhaps this is because the return accruing to equivalent positions in the two societies is the same, but one society better approaches equality of fair opportunity than the other.¹⁴ Or

¹³ Simon Caney (2005, p. 123) has argued that there should be equal remuneration—if not equal pay (in US dollar terms say)—for equal work, regardless of where in the world that work is undertaken. I am sympathetic to this position (see my discussion of equality of gain in terms of equivalency rather than identity below). However, note that my principle only covers exchanges *across borders*. And even then, what is equitable will depend on which *particular* border the exchanges cross (as the relevant comparison is between *compatriot* and foreigners). For criticism of a position like Caney's, see Lehman's (1985) engagement of Henry Shue.

¹⁴ On equality of fair opportunity: Rawls (1999, pp. 73–78).

perhaps both societies are equally just in this sense, but one is uniformly poorer than the other, such that each position in its socio-economic distribution receives a lesser return than that which accrues to the equivalent position in the wealthier society. Either way, isn't it unfair that one person receives less than another as a consequence of the morally arbitrary fact of societal membership, just as it would be unfair for one person to receive less than an otherwise similar other on account of race, gender, or sexual-orientation within the same society?

While I have argued that an inequality of this kind can be unfair without being unjust, it would be wrong to take advantage of this unfairness merely in order to reap a greater share of the gains of trade for oneself. And to the extent that persons fail to fulfil this obligation in international trade, it can no longer be said that unfair inequalities across international borders are not justice apt, at least in part. To the extent that someone is worse off than an otherwise similar foreigner because they have been exploited, they have a claim to have been wronged that someone equally worse off in a world of autarkies would not.

For illustration of this argument, consider the following analogy from the domestic context. Imagine that you are an employer who needs to fill a position in your firm. You have interviewed numerous candidates, and of the two you are considering for the position, one is a man, and the other, a woman. Now, you are considering what wage to offer to each. You realise that because of discriminatory conditions in your society as a whole—conditions that you have opposed, let us say, in the your capacity as a citizen—the woman's bargaining position is worse than the man's, such that she would accept a lower wage than the man for doing an equally good job. Now, it seems to me that it would be wrong for you to take advantage of the woman's bargaining weakness so as to employ her for a lesser wage than one would the man, the revenue of your firm held constant. Even though you are not *responsible* for her bargaining weakness,

you would still do wrong to *take advantage of it* to benefit yourself at her expense. Further, if you were to employ the woman instead of the man, and pay her a lower wage than you would the man, you could no longer claim that the fact that she was worse off than equally talented and motivated men in your society had nothing to do with you.

The implication of this argument is that even if foreigners are not entitled to an equal share of the gains of exchange, they are, at a minimum, entitled to what would be theirs if only an accident of birth did not leave them with an arbitrarily worse bargaining position—all things being equal, at least. Now, at first glance this claim might seem very unattractive. For it does not dictate that foreigners who would otherwise be paid less must necessarily be made better off. As the duty is conditional on the tie of trade being in place, one does not violate it if one *refrains* from trade. So it might be suspected that if the affluent were actually to live by this principle, relatively disadvantaged foreigners would not be made better off through higher returns, but worse off via fewer trade opportunities. Even if we put to one side the fact that beneficence likely dictates that the affluent *ought* to trade with the poorest countries—even at “loss-making” prices—can a principle really be plausible that, if acted upon, would remove trade opportunities from the relatively disadvantaged? Given the importance of trade to development, wouldn’t this be like pulling out the rug from under the less affluent’s feet?

There are a number of things to say in response to this objection. First, and most obviously, there are greater costs involved in doing business across the border that must be factored into the analysis.¹⁵ When goods are traded across international borders, there are a variety of transaction costs that come into play, including duties, fees to exchange currencies, the risk of exchange rate fluctuation, and transportation costs. As a consequence, it is not appropriate simply to contrast, for example, an American factory worker’s pay with a

¹⁵ R. Miller (2010, p. 64).

Vietnamese factory worker's pay. The former is located in the destination market (let us say), while the other is thousands of miles away in a different political and economic jurisdiction. We must remember, in other words, that a non-exploitative return is one that equitably divides the *net-gains* of trade.

Second, there are a variety of reasons that foreigners might be paid less than compatriots *were* (or *would be*, if trading with foreigners was out of the question) that are consistent with the right interpretation of this principle. First, if there are no terms on which it is possible—or no longer possible—to trade with a compatriot that are compatible with mutual benefit, then it is not impermissible to pay a foreigner less. If we were merely looking at trade in consumption goods, it would be difficult to envisage circumstances in which it would not be possible to find some set of exchange terms consistent with mutual benefit vis-à-vis a compatriot when some such terms could be found with respect to a foreigner (at least when benefits are calculated relative to the low baseline introduced previously for determining what constitutes exploitation). However, much trade across international borders is in the form of *inputs* or *intermediary goods*. How much of a surplus is generated in an exchange involving goods such as these—or directly in a labour contract—depends ultimately on what sort of return can be had in the market for the final output. Now, in circumstances where there is no assurance that your competitors will abide by *their* obligation not to exploit, and they can use a cost advantage gained from exploitation to undercut you in the market for the final output, paying someone less than what would be non-exploitative if there *was* such assurance does not mean actually exploiting them. This is because when there is pressure from less scrupulous competitors, the gains of cooperation are not as great as they otherwise would be, even relative to the appropriate baseline.

In other words, when we see jobs move offshore, with foreigners doing work for lower wages than compatriots previously did—or would do if international trade was out of the question, perhaps—this does not *necessarily* mean that exploitation is occurring, even by the minimal standard where all that exploitation requires is that foreigners are not treated differently than compatriots. If it is no longer possible for a business to *survive* employing compatriots at going rates, then there is little to object to (for where is the mutual benefit to be divided equitably here?). If the choice, however, is between employing compatriots at a higher wage while reaping a lower profit, and foreigners at a lower wage while reaping a higher profit, then exploitation of foreigners is occurring. Even when competition in markets for outputs is fierce, however, we all have a duty in our political capacity to push for a political order that provides assurance that no one will undercut other producers by exploiting workers or suppliers of inputs. To the extent that there is trade across international borders, this is a duty to establish and/or support the appropriate sort of order *globally*.

Third, it should be remembered that, at least in the world of liberal trading societies, compatriots still owe one another duties that foreigners do not, even if that world is densely integrated, at long as this integration is purely in terms of interpersonal trade. For it is only domestically that there is a cooperative scheme for the provision of public or common goods. Now, what goods a state may or ought to supply directly—rather than being left to the market—is outside the remit of this project.¹⁶ However, say that it is permissible for a society to provide unemployment benefits to its citizens, and one country does so as part of providing a bundle of goods that net-benefit each citizen equitably overall. Further, say that as a consequence of these unemployment benefits, there are some occupations that persons in that society would never opt

¹⁶ For a position on one extreme of this debate, see Schmidtz (1991). Schmidtz argues that even non-excludable and non-rivalrous goods might be supplied without state coercion via an assurance contract. For positions at the other end of this debate, see Anderson (1993), Satz (2010), and Sandel (2012).

for. Even if they could sell the goods generated in those roles on *equitable terms*, they would still be worse off than if they continued on unemployment benefits. Now it doesn't seem to me that if foreigners are willing to produce and trade the same goods on the same (again, equitable) terms that they are being exploited. Even if it is unfair that foreigners don't have these unemployment benefits themselves, one is not wrongfully leveraging this unfairness as long as foreigners are offered terms that equally divided the gains of exchange.

The other thing to note about justifiable public-good provision amongst compatriots, is that it might be permissible to secure the equivalent of equal net-gains in public-good terms by ensuring that people who would otherwise be relatively disadvantaged are rewarded on the market (rather than directly in terms of public-good provision). Picture a society in which a lot of taxpayer money is spend on infrastructure and public services, but as things stand, only those people who lives in or near cities really benefit from this expenditure. People living in rural areas and remote communities still contribute an equal share in tax dollars, but don't see much benefit in return.

Now it seems to me that there are two ways in which the unfair division of public-good gain here might be made equitable. One would be to extend public benefits to those living in rural areas and remote communities directly. For example, the government could build railways in those remote areas and communities, and establish postal services there, despite the fact that, say, no private business would find it profitable to do so. But another way to ensure that people living in rural areas and remote communities are not inequitably disadvantaged would be via measures to ensure that they receive higher market returns than they otherwise would. Say that rural residents are not owed more on the grounds that otherwise they would be exploited within the market. They might still be owed more *overall* on the basis that otherwise their compatriots

would exploit them, via the state, in terms of public-good provision. In a case like this, for instance, a country might want to level tariffs in order to ensure that compatriots receive a better return on their goods. (I discuss what might be problematic about this option in Chapter 4).

Fourth, it is worth recalling, in this connection, the argument made in the previous chapter that merely because a foreigner is paid less than a compatriot in dollar terms, where output return and costs are otherwise equal, is no reason to think that they do not net-gain to a sufficient degree. Even if it seems wrong to think that the right way of defining equality when it comes to dividing the gains of exchange is in subjective terms (rather than in terms of an objective currency)—on the basis that to do so would unfairly disadvantage those who are already relatively disadvantaged (as a consequence of diminishing marginal utility in income or due to adaptive preferences)—it may still be that dollar-value is not the right metric to go by. It may be that the best basis on which to compare otherwise similar persons across international borders is not in terms of dollar gain—even at purchasing-power-parity, although this is a first step—but according to their position *without the socio-economic hierarchy of their own society*. If, for example, what is paid to workers in sneaker factories in America enables them to maintain a position in the middle class of their society, then, at a minimum, and all things being equal, sneaker workers in Southeast Asia should be compensated to a degree sufficient for them to achieve a similar position, albeit on the terms of their own society.

Now, it might be that even once all these factors are taken into consideration, were people to fully integrate a concern for exploitation into the way they lead their lives, some trades would no longer take place that otherwise would. A commitment to relational obligations necessarily entails this. But I'm not sure there is reason to think that moving to a moral standard incorporating a concern for exploitation will systematically disadvantage relatively poorer

foreigners. Notice that even if it is accepted that, at a minimum, I should not remunerate foreign exchange partners to a lesser degree than exchange partners who are my compatriots—all things being equal—this does not necessarily mean that I will only trade with my compatriots. It is not as if I am permitted to exploit my compatriots, but not foreigners, such that all other things being equal, I will always trade with my compatriots. A requirement not to exploit applies to each and every possible transaction that I might take part in, and so it can't be escaped entirely as long as I rely on others to provide for my wants and needs. When foreigners are in a position to offer goods that compatriots are not—as a consequence of their comparative advantage—or can offer similar goods of greater quality and higher value, trade opportunities will flow to them.

V. Exploitation and Injustice Abroad

In the previous section of this chapter, I argued that it is wrong to take advantage of the arbitrary difference in bargaining power that is societal membership in order to appropriate more than one's fair share of the gains of exchange. This extends not simply to cases in which the society of the relatively disadvantaged party to trade is poorer in general. As noted in passing earlier, it also covers cases in which a party to cross-border exchange is relatively disadvantaged because his or her society does not approximate equality of fair opportunity (domestically) to so great a degree. This is a necessary extension of my theory to the partially non-ideal circumstances in which foreign societies are unjust.

But it is possible, of course, to envisage circumstances in which cross-border inequality is generated by conditions of injustice in poorer societies that go beyond a failure to ensure that positions are open to all on more than merely a formal basis.¹⁷ Consider, for example, societies in which there is formal discrimination on the basis of caste, race, ethnicity, or religion. Or

¹⁷ For a discussion of this problem that leads to similar conclusions as mine, see Risse (2007, pp. 361–365).

consider countries governed by authoritarian regimes, in which leaders exploit their own people and/or violate their negative rights by appropriating their goods or enslaving them. In cases such as these, oppressed people, whether members of minority groups or otherwise, will be particularly susceptible to being taken advantage of by affluent foreigners on account of their peculiar bargaining weakness.

So, to be clear: the requirement not to engage in wrongful exploitation it intended to cover cases of these kinds—cases in which trade is being conducted with persons subject to injustice beyond mere unfairness in opportunity—as well as cases in which the relative bargaining weakness of the poorer party to cross-border exchange is purely a function of their being born into a society that is just, but happens to be poorer. In other words, when trading with persons who are subject to injustice, one is not permitted to take advantage of their situation to pay them less than one would if their society was just, any more than one is permitted to pay them less on account of the fact that their society happens to be poorer in general (all other things being equal).

But a tricky problem arises when the affluent are in a position to trade with victims of injustice abroad, but conditions do not enable the affluent to avoid exploitation if they take advantage of this opportunity. This is particularly likely to be a problem when disadvantaged foreigners are subject to oppression by their governments, rather than being discriminated against on the basis of their race or religion in the private sphere. Consider, for instance, the case of affluent persons who are considering employing victims of injustice abroad, but the only cross-border labour contracts that are politically feasible lead to insufficient gains on the part of workers by the standard of non-exploitation outlined in the previous section of this chapter. Say that the authoritarian regime that is responsible for the injustice in question—picture Burma or

even China—acts as a gate-keeper in transactions of this kind, only allowing terms of exchange that entail their skimming off some proportion of what the workers are ultimately entitled to.

What are we to say in this case? While troubling, there are reasons to believe that cross-border trade with victims of injustice is not necessarily impermissible in this case. First and foremost, to the extent that cross-border trade benefits victims of injustice—and exchange is certainly impermissible if this is not so—it provides them with a means to alleviate their situation. Having said this, parties to trade with victims of injustice when there is gate-keeping behaviour of this kind may not engage in exchange if doing so empowers the authoritarian regime in the sense that it exacerbates injustice overall. After all, even a gate-keeping contract that allows some gain to the particular victims of injustice that are implicated in that contract may exacerbate the situation of other victims to the extent that it provides the regime with more resources to prosecute wrongs.

In addition, when the affluent choose to participate in gate-kept exchanges of this kind, they still have a responsibility to avoid wrongful exploitation to the extent that they are able. For example, if the terms of a gate-kept exchange are such that the globally affluent accrue a greater gain than they are entitled to by the non-exploitative standard outlined in the previous section of this chapter, they have a responsibility to devote the proportion of the gain to which their trade partners are entitled to efforts to alleviate the relevant injustice, and/or to set aside those funds until such a time as they can be returned to those who are rightfully entitled to them.

Thus far I have discussed cases in which there is potential for trade, directly or indirectly, with *victims* of injustice abroad. But what about cases in which there is the potential for mutually beneficial cross-border exchange with members of unjust societies who are *beneficiaries* of that injustice? Consider the case of authoritarian regimes that treat the country's

natural resources like the private property of the favoured, selling those resources on the global market so as to profit the ruler and his supporters.¹⁸ Or consider the case in which what is offered by beneficiaries of injustice on global markets is the product of domestic exploitation, theft, or enslavement. Trading with beneficiaries of injustice in cases such as these is surely akin to trading in stolen goods, and therefore impermissible?

It would certainly be wrong to extend an exchange offer to a potential beneficiary of injustice abroad if offering that opportunity was what incentivised injustice. Yet it is possible to envisage circumstances in which trading in a good to which one's exchange partner is not entitled—that good being, rather, a benefit accrued from injustice domestically—does not facilitate wrongdoing in this way. Say that the injustice in question was politically motivated, such that it would occur whether there was a potential for international trade or not. Or say that there were less discerning trade partners out there, who would step in and purchase the goods gained wrongfully if you refrained from doing so (an assurance problem in non-ideal theory). In a case like this, I posit that it is permissible to trade, but only on the right sort of terms. These terms are those that would enable the affluent to set aside funds to compensate victims of injustice if and when this should be possible. Indeed, I would have thought it is permissible to push for maximum advantage with the beneficiaries of injustice abroad—rather than abiding by the usual norm of non-exploitation—to enable this.

¹⁸ Wenar (2008).

Chapter 3 – A World of Protectionist States

In the last chapter, I attempted to determine how both the potential and practice of interpersonal trade might call for pre-existing duties across borders to be reinterpreted, or generate new obligations that would not exist in the absence of trade. In order to pinpoint the relevant moral intuitions, I re-modelled my hypothetical archipelago—an archipelago in which all societies were originally autarkic—so as to admit private exchange across borders, but exclude all other ties relevant in our own world, including those ties that might be generated by a state capacity to exercise commercial-policy choice. In other words, I asked the reader to contemplate a world in which each state's commercial policy was *de facto laissez faire*—on account of the primitive state of social-scientific knowledge and institutional development—but in which there was, nevertheless, cross-border trade between individuals. I then asked the reader to consider whether affluent individuals in such a world would owe foreigners anything more than they would owe them even if every society was economically autarkic: namely the most effective assistance to alleviate absolute neediness—although not to reduce arbitrary inequality—up to a point where sacrificing more would mean going beyond would be too costly from the standpoint of the Principle of Sympathy.

My own response to this amended hypothetical world—which I called the world of liberal trading societies—led me to claim that, indeed, the potential or practice of interpersonal trade across borders expands the scope of distributive concern. First, to the extent that the potential for trade provides the affluent with a new means beyond transfer to advance the interests of the needy—by purchasing the goods they produce, for instance—the duty of beneficence must be reinterpreted. As long as needy producers are not exploited (i.e. provided with less than that share of the gains of exchange that would minimise their need), trade should

be preferred to transfer as long as this enables more to be achieved, in terms of need alleviation, for requisite sacrifice. Second, and more significantly, trade grounds an obligation incumbent on parties to private exchange to ensure that the gains of exchange are equitably distributed, on pain of exploitation. This is a duty that would exist, of course, even if every society was economically autarkic, but it would naturally apply only between compatriots. The advent of international trade generates, therefore, a new obligation in the international context.

Avoiding exploitation is not merely a matter of ensuring that, when one's trade partner is poor in absolute terms, the gains of exchange are distributed in such a way as to minimise need. This is because fairness is a value that applies to all cooperative interactions and endeavours, not simply those in which one or more of the participating parties is needy. It is possible, in other words, to exploit someone in a market transaction even if they are not in need. Now, in the previous chapter I noted that it is only possible to give a tentative account of exploitation in this dissertation. Nevertheless, I provided reason to doubt that the market price, or competitive market price, is necessarily non-exploitative. It is unlikely that actual alternatives to an exchange on particular terms—i.e. how well off a party would be if they traded with someone else on the basis of the best terms available to them (without violating anyone's negative rights)—determines what constitutes a fair price in *that* exchange.

There doesn't seem to be any good reason, for instance, why a foreigner should receive less than a relevantly similar compatriot—when the social surplus generated if trade occurred would be the same—merely because his or her society happens to be poorer in general, or because his or her society approximates equality of fair opportunity to a lesser degree. Even if one does not accept that trade gains should be *equally* distributed, in other words, there doesn't seem to be a basis on which one could argue that a foreigner is entitled to less than a compatriot,

all things being equal. This does not mean that, in our own world, the mere fact that a foreigner who trades with our society is paid less in dollar terms than he would be if he was a member of our society is objectionable, but might well be a cause for concern. As such, some individuals in a world of liberal trading societies would have an obligation to foreigners beyond an obligation of beneficence to assist the absolutely needy. However, this obligation would only extend to direct trade participants in their role as parties to exchange. There would be no wider obligation falling on non-trade participants, even if those individuals gained indirectly from their compatriots' participation in trade—via gains from national specialisation or technology spill-over, say.

However, even in a trading world without the complex international political processes and multiple global institutions that characterise our own world, individuals might be obligated to foreigners in a different capacity. As long as states have the social-scientific knowledge and institutional means to implement a commercial policy, such individuals may be obligated to foreigners on the basis of the role they play, politically, in determining their country's trade policy stance. After all, this stance bears on the interests of foreigners—it determines whether more or fewer opportunities for mutually beneficial exchange will be extended to them, and, potentially, the terms on which those trades will be concluded. Further, any *change* in that stance—picture an abrupt raising of tariffs—has the potential to harm foreigners, especially those who are dependent on access to a particular state's market.

But what are the moral implications of the capacity to set a commercial policy? Given the potential for trade policy to advantage *compatriots*—certainly employers and employees in protected industries, and potentially all one's fellow nationals if the (perhaps non-monetary) gains of protection are justly distributed—is trade protection wrongly discriminatory against

foreigners and therefore impermissible? Even if this is not the case, might some degree of trade openness ever be obligatory? Or is it entirely within a society's remit to determine, according to an appropriately democratic and rights-respecting procedure, what its trade policy will be? In the present chapter I seek to answer these questions.

In order to isolate the relevant moral intuitions, I start by re-modelling my hypothetical archipelago to admit commercial policy, but exclude even the potential for diplomatic bargaining between states. (The moral implications of trade policy bargaining and trade agreements are the subject of the next chapter.) Most importantly, I relax the assumption that social-scientific knowledge is insufficiently advantaged to admit the efficacy of trade policy in pursuing goals of various kinds, but retain an assumption that this knowledge has not yet reached a level such that states entertain the good that might be gained through negotiating reciprocal adjustments in trade policy (or indeed by threatening trade partners with a damaging adjustment in trade policy).

By way of a response to this scenario, I argue that the capacity for commercial-policy choice does indeed expand the scope of distributive concern. But this is not because trade policy privileges domestic over foreign producers of the same economic good. For a state to level a tariff—because it appropriately determines that this is in the interests of its citizens (and justly distributes the gain domestically)—is no more problematic than an individual deciding to consume a smaller quantity of an otherwise desired good in the interest of the whole person, at least as long as those outsiders denied opportunities thereby are not needy in absolute terms. Rather, it is because commercial policy has the potential to *impact the terms on which international exchanges are concluded*, as optimal tariff theory reminds us.¹

¹ Neoclassical economic theory admits the “terms of trade argument” as the only rational basis on which a country might level tariffs. The argument is essentially that if an economy is large enough, it can push down the price of imports by levelling tariffs. In the right circumstances, the gain from lower prices offsets the loss from suppressed trade (in terms of aggregate national surplus). The theory dates to Edgeworth (1894) and Bickerdike (1907).

When a state determines a commercial policy that is binding on all its citizens, it is as if a share of producers and/or consumers across a variety of global markets had formed a set of cartels. As discussed in the introduction, Rawls plausibly claimed in *The Law of Peoples* that fairness in international trade would require that “larger nations with the wealthier economies... not attempt to monopolize the market, or to conspire to form a cartel, or to act as a monopoly”.² This chapter represents the first step, therefore, in assessing this thought, and, to the extent that it is justified, determining its specific moral implications in terms applicable to those with the power to shape a state’s trade-policy stance.

Not all states have the capacity to influence the terms on which international exchanges are concluded—at least not in all goods they might level tariffs on. However, when the share of consumers or producers that a national market represents globally is sufficiently large, trade policy has a number of moral implications. First, those responsible for determining a state’s commercial policy must be sure that they do not cause or exacerbate exploitation of foreigners. Exploitation would be a concern, of course, even if no state had the capacity to shape a trade policy, but the relevant obligation would fall only on direct trade participants. In a world of protectionist states, in contrast, *all those who part-author their state’s commercial policy bear a duty in their political capacity*. To the extent that my state’s policy stance ensures that foreigners receive a lesser gain than is equitable in trading with citizens of my state, I am implicated in their exploitation, at least if I live in a democracy.

Although there is limited empirical evidence that a desire to establish optimal tariffs motivates protectionism, or that protection tends to move as predicted by the theory, Bagwell and Staiger (1999, 2002) have built an influential functionalist model of the WTO on its basis. The argument is essentially that countries pursue optimal tariffs, but that all countries are worse off in Nash equilibrium when all behave in this way as per the prisoner’s dilemma. The WTO is then a means to overcome a collective action problem.

² Rawls (1999b, p. 43).

Of course a state would need to be concerned about the potential to cause or exacerbate exploitation even if its citizens were entering international commerce for the first time, and it was seeking to determine what *level* of protection to adopt. However, once a society has been bound to others via a network of private trade ties—and the economic structure of each has been moulded on the basis of that *particular* network of ties (moulded towards each society's comparative advantage, at least in the absence of protectionist measures)—there are additional moral constraints that pertain to *changing* commercial policy. Once societies are trade interdependent in this way, foreigners are vulnerable to being disadvantaged in ways that are more concerning than being denied an opportunity to benefit, or even being denied an equitable share of the gains of trade. Most significantly, states that possess market power in their commercial-policy choice have the potential, if they *raise* tariffs—when trade previously took place against a lower tariff level—to *harm* trade dependents; to, in other words, leave foreigners regretting that our society was ever even somewhat open to trade. For if our society had never been open, those foreigners would have specialised in a different good and catered to what would ultimately have turned out to be a more reliable market. In other words, trade interdependence entails a vulnerability to having a right violated that I took as uncontroversial in introducing this project: the right not to be harmed.

Further, once states have been trade interdependent for some period, it is possible for a state to *exploitatively disadvantage* foreigners. Picture a European country that for a long time relied on imports of agricultural goods and raw materials as industrial inputs, and as a result had low trade barriers on those goods. However, having experienced changes in its economic structure over a number of decades, that country now determines that it has more to gain from joining the European Union, which would entail an effective increase in trade barriers for outside

producers. Might not foreign farmers—whose prior cooperation was necessary to put that country in a position to benefit from EU membership in the first place—have some moral claim to have their disadvantaging limited, even if that effective raising of trade barriers did *not* reach the threshold of net-harm? In section V of this chapter, I claim that actors such as these might well have such a claim, on the basis that fairness in cross-border trade requires more than that immediate and prospective gains be equitably distributed, on pain of exploitation, but that unforeseen benefits also be distributed equitably when they arise. This is true even when these benefits include *other market opportunities*.

That a capacity to determine a commercial policy grounds a society-wide concern not to exploit—a concern that would otherwise be restricted to direct trade participants—and that trade interdependence brings with it vulnerabilities to be harmed or unfairly disadvantaged are the most important claims of this chapter. They are the obligations that are grounded on a capacity to determine a commercial policy, in the sense that in the absence of this capacity they would not exist. However, there is also reason to discuss how pre-existing obligations might need to be reinterpreted in light of such a capacity. As such, this chapter is structured as follows. First, after outlining the relevant hypothetical world, I discuss the way in which pre-existing considerations of beneficence might play into commercial-policy choice. I argue that unilateral trade-opening—to facilitate market entry by needy producers—may, in fact, be required of a society, and that states should be alert to the impact a *change* in trade policy might have in inducing neediness abroad, even amongst non-trade partners. I also discuss the issue of how the benefits and burdens of unilateral opening in the interests of the foreign needy should be distributed domestically. Although it is beyond the remit of this project to outline and defend a particular view on distributive justice within the state, it would be remiss of me to pass over one

of the most significant moral controversies in globalisation ethics. Second, I discuss the extent to which a state nevertheless retains discretion over its trade policy, arguing that there is no obligation to have lower trade barriers than would otherwise be preferred merely to reduce arbitrary inequality between societies or otherwise similar individual across borders. In the third, fourth, and final sections of the chapter, I turn to my core claims: that the capacity to determine a commercial policy grounds a society-wide concern not to exploit, and that the vulnerabilities arising from trade interdependence ground requirements not to, first, net-harm and, second, exploitatively disadvantage, when altering trade policy.

Before turning to these matters, a final point of clarification is necessary. The reader may be wondering what actor I intend to focus on in the current chapter, as well as future chapters in which I turn to political relations between societies. Am I still concerned with individuals—and the obligations incumbent on them—or is my unit of analysis the state? In a sense I am concerned with the latter rather than the former, and will often speak in these terms in this and future chapters, claiming that “a state should pursue commercial policy X”, or “a state should avoid commercial policy Y”. However, this is not meant to imply that, somehow, states have something akin to moral personhood. Rather, when I speak of a state being obliged to do X or avoid doing Y, I am really using shorthand: I am referring to the political obligations of persons within that state, given their effective political power justly exercised. In a democracy, of course, the role of citizen is the ultimate political office, so to claim that “a state should adopt commercial policy X” is to claim that citizens should promote this policy—in exercising their vote for example—and adhere to it in their own lives—by, for example, refraining from smuggling goods or purchasing smuggled goods. As my analysis is primarily intended for an audience in the developed world, I will often speak as if the states I am concerned with are

democracies. But the prescriptions I arrive at are not meant to be restricted to democracies. Even in non-democracies, commercial policy is authored. As such, the duties I specify should guide anyone who plays a role in authoring a state's trade policy, whether that state is a democracy or not.

A World of Protectionist States

The hypothetical world that the reader should envisage for the purpose of isolating those moral intuitions specifically pertinent to a capacity to mould a commercial policy is similar, in a number of respects, to the world of liberal trading societies. Most importantly, just as in the world of liberal trading societies, and in contrast to the world of autarkies, the waters that divide the island-societies in this hypothetical world are sufficiently narrow and calm to admit traverse. Further, the state of technology—in boat construction and navigation, say—is sufficiently advanced to facilitate cross-border trade between individuals who are members of distinct societies.

Nevertheless, there is an important difference between these two hypothetical worlds. For the purposes of the previous chapter, I asked the reader to imagine a world in which intellectual and institutional development was not sufficiently advanced for any state to establish a trade policy. As such, every society's policy stance (to the extent that it even makes sense to speak of such) was *de facto*, although not *de jure*, *laissez faire*. In contrast, for the purposes of the present chapter, the reader should take it that this somewhat awkward assumption has been relaxed. In the world of protectionist states, the state of social-scientific knowledge is taken to be sufficiently advanced that political decision-makers realise that their goals—whether economic or political, and whatever their shape—might potentially be pursued via the tools of

commercial policy. Further, state institutions are sufficiently developed such that were decision-makers to wish to adopt protectionist measures, these measures could be effectively implemented.

Of course, in our own world the commercial policies that states adopt are, in part, a function of trade-treaty bargaining between governments—either bilaterally or in a coordinated setting, as in the World Trade Organization. As such, whatever political obligation we ultimately have as actors with a capacity to shape state policy must be additionally applicable to bargaining positions and responsive—in the sense of being shaped as a relational duty—to bargaining outcomes. Yet the role of bilateral and globally-coordinated trade-treaty bargaining are matters for future chapters. In the world of protectionist states there is no bargaining in either of these senses or, importantly, the potential for it, and in this sense every state's trade-policy choice is autonomous.

In envisaging this world, therefore, the reader should picture an archipelago in which the governments of the island-societies have no on-going diplomatic relations. Let us say this is because the state of social-scientific knowledge, while sufficiently advanced to accommodate the efficacy of trade policy, is not yet developed to the extent necessary to recognise the potential for mutual gains through the reciprocal adjustment of trade policy, so no state has even attempted to establish diplomatic contact. This is not so implausible: picture a world in which states are persuaded by Hobbes's argument that covenants made in an anarchic social environment—one lacking a sovereign with coercive power, as in the international realm—are liable to be broken, and thereby treat the economic circumstances to which their trade policies represents responses as akin to facts of nature.

That states determine their commercial policies in what game theorists would call a non-cooperative context does not mean, of course, that they are not politically interdependent in some sense.³ When a state is considering what commercial-policy strategy to pursue given prevailing economic conditions, and with a view to how those conditions might change as a consequence of that strategy, its choice is inevitably conditioned by the political strategies of other states, albeit indirectly via the impact of those strategies on economic conditions.⁴

However, more direct forms of political interaction are ruled out in the world of protectionist states. Most obviously, the use of trade policy for coercive purposes is out of the question, as there is no diplomatic relations between states. No state can hope to compel or deter other states by threatening to adjust its own commercial policy—even if such a self-abrogating move could be made credible—because there is no avenue to communicate the intention of such a move or to specify what precisely must be done in order to avoid it.⁵ But more importantly, no state can trade an adjustment in commercial policy for some reciprocal adjustment in the form of a trade treaty. As such, there are no possible circumstances in the world of protectionist states where it would make sense to be concerned that one state is dealing inequitably with another in their trade-treaty relations.

Yet it is in large part because states are political interdependent via their commercial-policy choices—even when they do not have obligations to one another grounded on the treaty tie—that warrants the current chapter. As our own world is one in which there is both the potential to bargain internationally, and a multitude of trade agreements—including quasi-global

³ Nash (1951).

⁴ To the extent that I still talk of a capacity to determine a trade policy as implicating a *relationship* to foreigners, I differ from Frank Lovett (2010, pp. 34–36). Lovett writes that “even when some significant outcome is the joint product of many people’s actions, however, the individuals involved still might not be engaged in a social relationship. A classic example is the so-called tragedy of the commons scenario...” While, like Lovett, I am primarily concerned with *cooperative* relationships (as in exchange and treaty), I use the term more widely.

⁵ Schelling (1956; 1960, p.195).

treaties regulated by the WTO—the reader might be tempted to skip over the current chapter in search of policy prescriptions of more immediate relevance. This, however, would be a mistake. Even in a world with the potential for trade treaties, the duties derived in this chapter persist. For instance, to the extent that an otherwise equitable trade treaty (as delineated in the next chapter) would require a state to violate the obligations derived here—either with respect to other treaty members or outsiders—the terms of that treaty would be wrong.

Another point of clarification is necessary. By styling the present hypothetical world “the world of protectionist states”, I do not mean to imply that a “protectionist” trade policy—as opposed to a “liberal” trade policy, perhaps—represents a superior policy stance. The reader would be right to suppose that simply because states have the capacity to depart from *laissez faire* is no reason to believe that it is in their best interest to do so, or that they would prefer protective measures over *laissez faire* if the decision was left to an appropriately democratic and rights-respecting procedure within that society. Nevertheless, if our own world is any guide, most states will prefer some protection on some goods to *laissez faire*. Indeed, if we define trade policy as widely as the WTO’s dispute settlement mechanism has in recent years—to include even domestic regulation that is not motivated by trade concerns, but nevertheless tends to “distort” trade—we should take it that a non-*laissez-faire* trade policy is effectively unavoidable.

Indeed, if reflection on the world of protectionist states is to provide policy guidance in our own world, it may be helpful for the reader to assume that circumstances in this hypothetical world are much as they are in our own: there is division of opinion—both across individuals globally and societies (even if all were democratic)—regarding the appropriate role of government, including in exercising commercial policy. This division is partially a consequence

of conflicting values, and partially a consequence of disagreement within social science, in particular over the best means to promote economic development in the long term.

To sum up what I have said so far: societies in the world of protectionist states have the capacity to mould a commercial policy, and as such are more than merely *trade* interdependent. They are also *politically* interdependent, at least to the extent that their commercial-policy choices have external effects. Nevertheless, societies in this world are not politically interdependent in the deeper sense that their trade policies might be shaped by international bargaining between governments, as diplomatic contact between states is not even a practical possibility in this world. It should also be noted that, as in the world of liberal trading societies, the world of protectionist states contains no politico-legal order globally.

I. Beneficence and Trade Policy

In the first two chapters of this dissertation, I developed an account of our obligation of beneficence—the natural duty on each of the affluent to assist those who are needy, even if we share no closer relationship with them than that of common humanity—that was, nevertheless, sensitive to the potential for, and practice of, interpersonal trade. In Chapter 1, I argued that there is a limit on what any of us can reasonably be expected to sacrifice on behalf of the needy, but that until this point is reached, each of us has a duty to assist the poor as effectively as possible. In Chapter 2, I argued that it is permissible to utilise trade as a means to advance the interests of the needy as long as the following two conditions are met. First, and most obviously, one must still sacrifice to the same extent as long as need persists. That needy people refuse opportunities to trade is no reason to limit what one sacrifices overall. Respecting others means taking their refusal of trade offers as evidence that an exchange on those terms would be

worsening, at least when they are already in need. Second, one must not exploit one's trade partner when they are needy. While avoiding exploitation normally requires that the gains of exchange be equally divided, when it comes to the needy these gains ought to be divided in such a way as to minimise need. Indeed, there may be reasons of efficiency to pay the needy a still greater amount, at least as long as minimising need would not be sufficient to render them non-needy.

The demands of beneficence—and the limits on those demands—obviously have repercussions for commercial-policy choice. Consider first the partly non-ideal circumstances in which individuals cannot be relied upon to do what is required of them to assist the needy, especially with respect to foreigners. In this context, a state may have to do what it can to ensure that its citizens—certainly its affluent citizens—act so as to benefit the needy abroad. One way to do this, of course, is to adopt low trade barriers on goods that needy foreigners produce, or would otherwise produce. Just as individuals can further the interests of the foreign poor by purchasing the goods they produce, as well as by providing them with transfer aid, a society can further the ends of needy foreigners by facilitating market entry, as well as via tax and transfer.

Nevertheless, for an open trade policy to be an appropriate expression of beneficence, two conditions must be met. These conditions are analogous to those that limit trade as a private expression of beneficence. First, a society may not use a failure on the part of the foreign needy to take up opportunities supposedly extended as an excuse for limiting sacrifice. Say that a society opted for a perfectly liberal commercial policy, but that despite this stance no trade ties were established with the foreign needy, perhaps because needy persons were not in a position to offer members of that society anything of value to them. It would be unreasonable, surely, for members of that society to say, "Collectively, we need do no more to help you". Second, the

state should seek to ensure that its citizens not engage in wrongful exploitation. In the previous chapter I argued that dealing fairly with one's trade partner requires, on pain of exploitation, that they receive an equitable share of the gains of exchange. However, avoiding exploitation of the needy may require more than merely an equitable or equal share of these gains. As barriers to trade have the potential to impact the extent of exploitation—as discussed in section III of this chapter below—affluent states must be cognisant of this potential in formulating their beneficent posture.

Of course, once a state is trade integrated under a given commercial policy—even a commercial policy that is consistent with what beneficence demands of its affluent citizens on aggregate—it must consider the impact that a *change* in its trade policy might have in terms of inducing neediness abroad. When a society has market power in the sense of optimal tariff theory, a raising of trade barriers will disadvantage all those who supply the relevant good—even *persons who are not trade partners of anyone in that society, but supply other national markets*—by driving down the world price of that good. In the absence of alternative markets that can take up the slack, needy foreigners will either receive a lesser return or be driven out of business altogether. Indeed it might be thought that a society has a special duty to favour foreigners vulnerable to being made needy by a change in trade policy, even if they are not direct trade partners.

It is also important to remember, too, that it is not only the needs of impoverished foreigners that states must countenance when seeking to ensure that trade policy satisfies the demands of beneficence, all things considered. States must also take care to ensure that, ultimately, the burden of assisting the foreign needy is distributed fairly across citizens domestically. The danger of adopting low barriers to trade as a means to assist needy

foreigners—or removing trade barriers when they were previously in place—is that it threatens to lead to an inequitable distribution of sacrifice domestically.

Picture a society that is entering international trade for the first time. Further suppose that there are no needy people in this society, and that it is internally just both in the sense that members of that society receive an equal share of any value they co-generate on the market, and in the sense that all members of that society net-benefit from public goods to an equal degree. Now, imagine what might happen if that society decided, upon entering international trade for the first time, not to adopt any trade barriers—in order to maximise opportunities for the foreign poor. It is entirely possible, of course, that more advantaged members of that society will use the bargaining leverage that they gain from entering international trade to depart from justice. Business owners, for instance, might be able to push wages lower—despite revenues being equal—because domestic workers must compete, directly or indirectly, with foreign ones. Now, as long as domestic workers receive a less than equitable share of the market gains they co-generate, they are wronged. But they are doubly wronged if they are disadvantaged to a degree where they must sacrifice more than is required of them by the Principle of Sympathy. Having one's wages significantly cut—or losing one's job—is much more than virtually anyone (besides a saint) would be required to sacrifice under this principle to assist needy strangers.

Now, it might be pointed out that in discussing how much any of us are required to sacrifice in order to advance the interests of needy strangers, I have had little to say about what baseline sacrifice is to be computed *from*. (My brief comments on this in Chapter 1 are clearly inadequate). This leaves open the possibility that persons disadvantaged by the entry of their society into international trade on *laissez-faire* terms—or the failure of their society to protect them from pressures arising from being trade integrated, even for period)—may *not* be

sacrificing more than beneficence requires of them, because their preferences have adapted to their circumstances.⁶ In other words, despite their relative deprivation in comparison to their compatriots, they cannot be said to be sacrificing more than beneficence requires of them because they are still relatively content. Yet is it possible to accept this inference while still believing—on the basis of the right understanding of beneficence—that it would be wrong for a society to fail to protect its less advantaged members against the pressures of trade openness, whether directly via trade barriers, or more appealingly, via other compensatory measures.

Compatriots are owed, as a matter of right, both an equal share of the gains they co-generate on the market and an equal share of public goods. To the extent, then, that their more-advantaged compatriots exploit them—even to advance the interests of the foreign needy—they do wrong irrespective of whether this would impose excessive sacrifice on the domestic disadvantaged or not. Even Singer's Strong Principle concedes, implicitly at least, side-constraints on what we might do to advance the interests of the needy. Even if I must sacrifice from my own projects in order to advance the interest of the needy, I may not normally steal from others in order to do the same.

II. Commercial Policy Right

The demands of beneficence obviously constrain what trade policy a state may adopt, even were that state entering international commerce for the first time. Commercial policy choice in the context of trade interdependence—with its attendant potential for exploitation and vulnerabilities—is a different matter, as I discuss in sections IV and V below. However, even a

⁶ As Amartya Sen (2009, pp. 282–283) puts it, “the utilitarian calculus based on happiness or desire-fulfilment can be deeply unfair to those who are persistently deprived, since our mental make-up and desires tend to adjust to circumstances, particularly to make life bearable in adverse situations. It is through ‘coming to terms’ with one’s hopeless predicament that life is made somewhat bearable by the traditional underdogs, such as... sweated workers in exploitative industrial arrangements...”

state entering international commerce for the first time need not seek to reduce putatively unfair inequalities—either between societies or between otherwise similar individuals across borders—and this preserves for it a certain range of commercial policies between which it may choose (according to an appropriately democratic and rights-respecting procedure) at its discretion. Here, I depart from the cosmopolitan view on trade policy. Although protectionism considered in isolation has received scant attention from cosmopolitan theorists of global justice, Darrel Moellendorf has the following to say in *Cosmopolitan Justice*:

Protectionist policies violate a principle of fair equality of opportunity. Such policies create different sales conditions for producers of equivalent goods, thereby affecting their ability to succeed. If this were to occur between two different domestic producers, it might be described as a failure of equal protection under the law. Since one's place of birth is morally arbitrary, it should not affect one's life prospects or one's access to opportunities.⁷

To claim that there would be no injustice if similarly endowed but culturally and institutionally distinct societies in a world of autarkies were unequally wealthy—were we to take per capita income as a measure, say—is not, I take it, particularly controversial. As I argued in Chapter 1, given the differential weight that different societies might place (democratically) on aggregate wealth vis-à-vis other cultural, social, and distributional goals, there is no reason to expect that all societies will be equally wealthy, even if all had equivalent opportunities and were equally prudent in exercising social choice. Further, even if there was no guarantee that all societies would be equally prudent, it would be unfair to ask societies who were prudent to share the burden of those who were avoidably foolish, and inconsistent with upholding equally dignity to require compensation for those who could not help their imprudence. The advantage of a view of justice that does not seek to distinguish brute from option luck is not merely that it

⁷ Moellendorf (2002, p. 55).

rescues that theory from unresolved metaphysical questions concerning free will, but that it necessarily refrains from judging who was more or less foolish, thereby protecting the dignity of actors both in their own and others' eyes.⁸ Finally, in the absence of cooperative ties across borders—either between individuals or states—or a common politico-legal order globally, any putatively unfair inequality that might exist between societies could not be attributed to exploitation in trade or treaty, or justifiably claimed to be undermining the equal standing of societies or persons under that order.

The claim, on the other hand, that there is no injustice if identically endowed and equivalently motivated individuals receive differential returns on account of their societal membership is more contentious. What of the individual who systematically dissents from his or her society's determination of its collective ends, or the means to those ends, even when that determination is via an appropriately democratic and rights-respecting procedure? What of the individual who is not insulted by the insinuation that that his or her compatriots are apt to make foolish political choices, because that individual does not identify strongly with his or her nationality? Would it not be unjust if such a person received a lesser return than they would if they were a member of another society—in part, let us say, because that other society levelled trade barriers that prevented that person from competing on equal terms with domestic producers?

Yet, as I argued in Chapter 1, international inequalities of this kind are not unjust, even if potentially unfair. They are, rather, akin to the unchosen economic inequalities that arise in the market—even when the range of those inequalities is limited in some way, as under the difference principle (or, presumably, under a market-friendly standard that nevertheless bars exploitative prices). What one receives in a market, given one's natural talents—indeed, what is

⁸ Anderson (1999).

to *count* as a talent amongst what one is endowed with, and to what degree—depends on others’ preferences over the contribution that that talent might make, and the relative scarcity of that talent (at least when actors tend to exploit each other)—both of which are entirely outside of the individual’s control.⁹ Even if the position of those who end up worst off is bolstered, in absolute terms, by provisions required by the difference principle, they are still unlucky to the extent that *their* talents (rather than somebody else’s) happen to be the ones that are valued and distributed in such a way that they must be compensated for. Obviously, it would be much better for people like this if their talents happened to be valued and distributed in such a way that they were positioned higher in the (albeit limited) socio-economic hierarchy permitted by the difference principle.

Something analogous can be said about international inequalities between ostensibly similar persons, even when these inequalities are in part a function of states’ trade-policy choices, rather than a purely a function of natural conditions—such as how rocky their coastlines happen to be. Allowing societies the freedom to determine their own trade policy—even if the cumulative consequence of this happens to be that some people receive less than similar others as a consequence of their national origin—is no more objectionable than permitting individuals the freedom of choosing how much of which goods to purchase in a market (let us say at non-exploitative prices). The claim that there is nothing objectionable about societies possessing the freedom to decide how much they will trade (the prices on which they exchange to one side) is even more closely akin to claiming that it is within the rights of members of a small-town community to “buy local” even if the ultimate effect of everyone doing so would be to arbitrarily disadvantage some producers at the expense of others.

⁹ Anderson (2007); Seligman (2007).

One reason why inequalities that might arise in a market may not be thought objectionable—even if they are not range-limited, as under the difference principle or according to a standard that bars exploitative prices—is that they are not chosen or imposed, but are rather the by-product of actors pursuing their interests in a non-coordinated fashion. After all, permitting each person the freedom to choose how much of what to purchase in the market is procedurally consistent with a variety of different distributional patterns and, indeed, the absence of putatively unfair inequalities entirely. And for the state to mandate that artists will receive less than comparably talented and motivated athletes—to draw on the example from Chapter 1 again—certainly seems worse than such an inequality arising spontaneously in a free economic order. Similarly, reserving for states the right of self-determination in trade-policy terms is procedurally consistent, at least in theory, with the absence of putatively unfair inequalities between individuals who are members of different societies. Even if states permitted their citizens to exploit foreigners (although not to harm them in a sense deeper than this) in addition to determining their trade policy purely with a view to the national interest, it might so happen that things balanced out so that no person was worse off than a similar other in another country.

There is certainly something to this view. Indeed, according to the perspective on distributive justice I offer in this dissertation, the primary reason that inequalities that might arise in a market (domestic or transnational) should be restricted is to avoid exploitation, not to compensate people for being unlucky not to have as much as others to offer on the market (unless they fall below the threshold defining absolute need, that is). This is not quite enough, however, to justify unrestricted freedom of choice in an inequality-range-restricted market and, analogously, unrestricted freedom of trade-policy choice within the constraint of not causing or exacerbating exploitation. After all, it seems as if there are certain preferences that it would be

wrong to pursue in one's choice of what and how much to purchase—even if, were everyone to act in that way, no one would be systematically disadvantaged. Surely it would be wrong, for example, for an individual to purchase from producers who are white rather than producers of identical products who are black purely in order to additionally satisfy a racist preference, even if, as it happened, the consequence of permitting everyone this freedom did not lead to unfair disadvantaging of blacks overall (perhaps because an equal number of consumers preferred to support black rather than white producers).¹⁰ Indeed, wouldn't it be wrong not to purchase something from someone on the basis of their race—when you would purchase that thing if it were not for their race—even if you didn't end up purchasing that same thing from someone else?

In other words, it might be thought that there are similar constraints on what states might do in exercising their commercial-policy choice. Because one's place of birth is as arbitrary as one's race—in the sense that one did not, and cannot, exercise any choice over it—a preference for one's compatriots' good that would see one purchase their products over identical, or even somewhat better, products produced by foreigners is a wrongful preference. As such, it would be wrong for a state to seek to satisfy this preference on the part of its citizens in its commercial-policy choice—or to seek to advance an analogous collective interest as determined by an appropriated democratic and rights-respecting procedure.

The basic point is that, to the extent that putatively unfair inequalities across international borders are a consequence of protectionist policies by states, it is not even possible to say that these inequalities are no worse than the arbitrary inequalities domestically that even a Rawlsian would tolerate. Although the difference principle normally permits the distribution of

¹⁰ Michael Blake (2006) has argued that it is wrong to discriminate on a basis that will contribute to the stigmatisation of some group in society.

preferences combined with the distribution of purchasing power to determine what will count as a talent, the principle of equality of fair opportunity takes lexical priority over the difference principle, and prevents arbitrary characteristics such as race as being factored as talents. In other words, when a state gives domestic producers a competitive advantage over foreign producers it is not like athletes getting paid more than *comparably* talented artists, but rather like *identically* talented (and motivated) artists reaping differential returns on the basis of some factor that has nothing to do with their office.

Yet there are a number of reasons to think that, nevertheless, a society has considerable license in (democratically) determining the extent to which it is trade integrated with other societies, obligations not to exploit to one side. For one thing, nationality—or national location—*can* count as a productive talent in way that race as such seemingly never can, even if we rule out a preference for the good of one's compatriots as an appropriate interest for the state to be promoting.¹¹ When a country levels trade barriers as a means to, for instance, shape its comparative advantage and increase its developmental prospects, a producer's nationality *does* bear on how much others gain purely in terms of their economic self-interest. While a foreigner might be equally well-placed to supply a particular product, they are not equally well-placed to play a role in promoting the economic development of that society, at least according to the view motivating the policy here (let us say that the infant industries argument is doing the motivating work). Trade barriers are therefore justified on the basis that foreigners and compatriots are *not* identically endowed, even if what they are offering for sale appears the same.

Indeed, trade protection might advance cultural, social, or political ends that foreigners are not in a position to contribute to even if we rule out all external preferences as illegitimate.

¹¹ Let us rule out, for the time being, so-called "external preferences". Preferences are necessarily self-preferences, but they are not necessarily self-regarding or *selfish*. External preferences are preferences concerning the good of others. See Dworkin (1977, pp. 234; 275).

Say that a country protects its agricultural sector in order to preserve its indigenous culture. One might say that such a policy wrongfully discriminates between agricultural producers with identical offerings. But this would be wrong. Only *domestic* producers are in a position to contribute to the perpetuation of that small society's culture; foreign producers of identical agricultural products are not. To be a member of that small society is, in that sense, rightly counted among a producer's talents.

Finally, sometimes it clearly *is* the case that we shouldn't rule out external preferences—preferences concerning the good of others—as something that it is appropriate for the state to seek to satisfy. Even in the trade-integrated world of protectionist states, it remains the case that only members of the same society are in a position to provide one another with public goods. Only they share, therefore, an obligation to seek to ensure that the public goods are equitably distributed—or, at least, that no citizen is worse off in relative terms than they would be if public goods were equitably distributed. An individual preference for the fulfilment of this obligation is clearly not a wrongful preference, therefore, and the levelling of high barriers to trade in order to promote its satisfaction may well be permissible. Indeed, such a policy might be morally required as long as there is no other feasible way of ensuring that all citizens of that society net-gain equally from the state scheme of public-good provision.

Finally, it is worth mentioning that even if states were obligated to do something about putatively unfair international inequalities in their trade policy capacity, it would not be to unilaterally lower trade barriers when they would otherwise keep them in place. It would rather be to push for a global economic regime to regulate each and every state's trade policy in such a way as to ensure that a comprehensive luck-egalitarian pattern is achieved globally. Unilateral efforts to tackle putatively unfair inequalities across borders via trade policy—or indeed in our

individual choices as consumers—are likely to be self-defeating. Imagine that wealthy-country A lowers trade barriers on good X purely in order that foreign producers of that good not be unfairly worse off than domestic producers of the same good. Further suppose that other wealthy countries do not extend similar concessions to analogous foreigners, either because they wrongly believe that their current trade stance is sufficient to ensure that arbitrary inequalities across international borders are addressed (there is no political coordination between wealthy countries in planning these efforts, after all) or because—moving into non-ideal theory for a moment—their citizens are not guided by a concern for the entitlements of outsiders in democratic deliberation (a particular sort of assurance problem). In a case such as this, A's efforts will inevitably be self-defeating from the luck-egalitarian perspective, because they will serve to open-up unfair inequalities between citizens of A and similar citizens of other wealthy countries, and, perhaps, between foreign producers of X and their compatriots.

III. Exploitation and Trade Policy

The degree of discretion over trade policy that any state has a right to is, however, diminished once that state is trade integrated. This is because that state must be sure not to cause or exacerbate exploitation in private exchange via its commercial policy—even of the non-needy—and not to harm or unfairly disadvantage foreigners via a change in that policy. As I argued in the previous chapter, foreign parties to trade are exploited if they do not receive an equitable share of the gains of trade. My own view is that an equitable share is an equal (in some sense) share of the net-gain created in exchange, but I also offered a more limited view according to which a foreigner should receive an equivalent return to a compatriot, all things being equal. In cases, then, when a state's commercial-policy stance has the potential to impact the terms on

which cross-border exchanges are concluded, all those who play a role in determining that commercial policy bear a responsibility not to exploit.

A state only has the power to influence the terms on which cross-border exchanges are concluded—or indeed to harm or exploitatively disadvantage foreign parties to trade via a change in trade policy—if it possess *market power*. Basic economic theory tells us that if a small economy levies a tariff on a good, the burden of that tariff will have to borne by members of that society. They must either pay a price sufficient to cover the cost of the tariff, or substitute for consumption of other, less desirable, goods. Foreign producers need not bear any burden, because there are alternate national markets still willing to pay the pre-tariff price. However, an insight of optimal tariff theory is that *large* economies have the potential to impact the world prices of goods via their trade policy.¹² If, for instance, a state’s consumers represent a large enough share of the purchasers of a good globally, then that state has at least a degree of monopsonistic power. Were it to level a tariff on that good, the impact globally would be akin to a fall in demand. Not only would the quantity of the good traded fall, but the price received by producers would drop too.

In this dissertation I do not seek to prescribe states’ goals or assess the choices they might make in pursue of their goals, at least as long as they fulfil their obligations. As such, I admit the possibility that societies might pursue non-economic goals via protectionist policy, or choose a degree of protectionism despite their economic goals, given their view of what best promotes development over time. Nevertheless, it is worth remembering that, according to optimal tariff theory, a state possessing monopsonistic power can gain if economic terms by levelling a tariff.

¹² It is important to note that this is true *regardless of what might motivate, or otherwise determine, trade policy*, as Bagwell and Staiger (2002) remind us.

If this power is great enough, the losses entailed by a diminishment in the number of cross-border exchanges will be offset by an improvement in the terms of trade.

For the purposes of this dissertation, I term those foreign parties to trade liable to be impacted by a society's commercial policy choice—either via an impact on the terms on which those exchanges are concluded, or being driven out of the market entirely—as trade *dependents*.¹³ In future chapters I also describe states analogously vulnerable using the same term. A producer, for instance, is dependent on a consumer—or, more likely, *group* of consumers (if they have the capacity to act together, as when united by a government exercising the commercial policy of a “large economy”)—when the latter has the ability to impact the terms on which a trade is concluded alone: to, in other words, impact its price.

Consider, then, how a state possessing market power might cause or exacerbate exploitation of trade dependents. This requires, of course, that we engage in non-ideal theory for a moment. Consider first a case in which a commercial policy might cause exploitation. Say that members of a society in a world of liberal trading societies were cognisant of their responsibility not to exploit, and therefore paid foreign producers of a valued good a price sufficient to ensure they received an equal share of the gains of trade. But that once that society evolved a capacity to exercise commercial policy—moving to the world of protectionist states—the government imposed a tariff on that good in pursue of the “national interest”, thereby driving down the return of dependent producers abroad. As long as consumers continued to pay the same price, it is plausible to say that, in this case, the state is responsible for exploitation, and every person who plays a role in determining that policy ought to push for rectification.

¹³ Not in the sense of dependency theory, but in the basic structural sense that one actor is dependent on another if exit from the relevant relationship is costly. See (2010, pp. 38–40; 53) and Hirschman (1970, pp. 21–29).

Now consider a case that more closely reflects the conditions of our own world. Say that individual citizens of a country in the world of liberal trading societies could not be relied upon to deal fairly with their trade partners, and that as a consequence many cross-border exchanges were exploitative. Were a capacity to exercise commercial policy to evolve, which trade policies would be impermissible? Which, if any, would be obligatory? Consider the former question first: clearly, if a society drives down the price of a good whose producers are already exploited, it is exacerbating the situation. To the extent that that society is a democracy, furthermore, *all its citizens* are now implicated in exploitation—even those who are not direct participants in relevant cross-border exchanges—and thereby bear a responsibility to rectify the situation. Indeed, were a democracy to disadvantage dependent producers in this way, non-trade-participants would no longer be able to claim that any spill-over gains they might acquire from their compatriots' trading as windfall benefits made at no one's expense.

In a world of liberal trading societies, were non-trade-participants to gain indirectly from their compatriots' participation in trade—via technological development induced by trade, say—it seems as if they would be entitled to any gains they might happen to make. This is because those gains would arise from what Joel Feinberg calls “harmless parasitism”.¹⁴ Even were non-trade participants to benefit from their compatriot's trade in circumstances in which their compatriots exploited foreigners, it doesn't seem as if they would owe anything to the foreigners who were wronged. If those foreigners would be no worse off if these non-trade-participants did not exist, it is unclear just how they can be held responsible for the wrong. However, when a *state* plays a role in determining the terms on which international trades are concluded, everyone who plays a role in shaping that state's policy has a responsibility to ensure that that state not cause or exacerbate exploitation. To the extent that non-trade participants benefit from, for

¹⁴ Feinberg (1988, p. 209).

instance, the developmental gains that accrue to the whole society as a consequence of a protectionist trade policy that drives down the price of traded goods—where those gains could not be achieved without protection—they are also liable to the charge of exploitation.

Indeed, it might even be the case that citizens of a democratic society should push for negative tariffs (import subsidies). Consider a case in which a country has the capacity to adopt any trade policy it should wish to adopt, but nevertheless opts for *laissez-faire*. Now imagine that some citizens of that country cannot be relied upon to do what is morally required of them, and take advantage of the bargaining weakness of their foreign trade partners in exploiting them. In circumstances like this, it may well be the case that their compatriots bear a responsibility to push for negative tariffs to ensure that foreigners receive an equitable return when they would otherwise be exploited.

Some theorists of global justice have argued that wealthy economies ought to make market access conditional on certain minimum labour standards being secured. Given that I have argued that societies have a responsibility, if they are to be trade-integrated, not to exploit foreigners, this is a proposal that my perspective is sympathetic towards. However, it is important to note that that such a practical proposal would have to be fine-tuned in the right way to meet the ideal that I seek to defend in this dissertation. First, because my standard of exploitation applies even in exchanges with the non-needy—and requires that trade gains be equitably distributed—merely *minimum* wages and conditions may be insufficient to ensure that foreigners are not exploited. Second, if these standards and wages are not sensitive to the extra costs entailed in trading with poorer countries, the competitive pressures that might result in even equitable gains in transnational exchange being lower than one might otherwise expect, and the view that equivalence rather than identity may be the right way to compare returns between

countries, these standards and wages may, in fact, be too demanding. Finally, imposing these standards in circumstances in which wider duties of beneficence and non-exploitation are neither recognised, acted upon, or enforced, may not improve things overall. Say that multinational corporations substituted exploitative trade in some middle-income country for non-exploitative trade with members of societies that would otherwise fail to meet minimum wages and labour standards. Or say that consumers purchased fewer goods than they otherwise might because they did not realise that beneficence might demand trade with the needy on “loss-making” prices. Given the range of such considerations, it would be important to pursue the ends of linkage via comprehensive reform of the global trade regime rather than unilaterally.¹⁵

None of what I have said above is meant to imply, of course, that it is always wrong to impact the world price of goods in exercising trade policy.¹⁶ The point is not that any such use of trade policy is an abuse of power—a procedural wrong not matter what its effect. Rather, it is that a state may not use its otherwise legitimate power wrongfully. What this means, of course, is that it is perfectly within the rights of poorer countries to seek to influence their terms of trade as long as their citizens are exploited by affluent foreigners. The smaller size of many poor-country economies will often, of course, hamper these efforts—although not always, of course: think of China. But poorer countries do possess market power if they act together, as they increasingly have within the WTO.

IV. Trade Policy and Vulnerability to Net-Harm

In prior sections of this chapter I have argued that a society is under no obligation to adopt low barriers to trade merely to advantage someone who would otherwise be worse off as a

¹⁵ For an argument of this kind, see Barry and Reddy (2008).

¹⁶ Or, indeed, via “manipulating” the exchange rate, as in China’s case.

consequence of where they happen to have been born. Just as an individual employer has no obligation to employ someone who has, in their view, lesser talents—even though those talents are an accident of birth—no society need permit the extension of exchange offers that it appropriately determines are not in the common interest of its citizens. There might be an obligation to maintain low trade barriers to ensure that those private exchanges that will inevitably occur are not exploitative, but no obligation to maintain low trade barriers merely so that foreigners will be extended trade opportunities that they would not otherwise have access to.

Yet it is not inconsistent to claim that there is no duty of this kind, while also maintaining that there are circumstances where it would be wrong for a society to *raise existing trade barriers*, even if no one would be exploited thereby, at least as long as the resultant disadvantaging of foreigners would be excessive. This claim, and its intuitive basis, is analogous to the claim that an employer with monopsonistic power in the labour market might be under no obligation to hire anyone—at least were beneficence satisfied—yet face constraints in terms of the circumstances in which it might justifiably fire workers.

It is a commonplace of international relations theory that trade interdependence provides states with a new power capability. In *National Power and the Structure of Foreign Trade*, Albert Hirschman notes that trade interdependence provides states with a means to disadvantage other states besides military force—namely via raising trade barriers—and therefore with a new means to threaten or punish in pursuit of the national interest. At least when market power is asymmetric—as when one state relies on bilateral trade to a much greater extent than its trade partner—this capability can be ominous. In this context, raising trade barriers will, at a minimum, oblige one's trade partner to “find alternative markets and sources of supply” and, at

most, “force upon them economic adjustments and lasting impoverishments”.¹⁷ Similarly, Joseph Nye and Robert Keohane note in *Power and Interdependence* that trade ties not only ensure that trends in one economy are sensitive to trends in others—such that, for instance, economic cycles in one economy ripple into others—but additionally entail political vulnerability. States can be dependent on their particular network of trade ties, such that a shift in those ties would necessitate a burdensome adjustment to the structure of their economy.¹⁸

Of course, raising trade barriers as a tool of international statecraft is largely a matter for future chapters. It should be remembered that a parameter of the world of protectionist states is that states do not have diplomatic contact with one another, or even the means to establish such contact. Nevertheless, the fact that trade interdependence renders foreign dependents vulnerable to be disadvantaged, does raise the question of whether such a disadvantaging might be wrong, even in the absence of direct diplomatic intercourse between states.

Most people think that it is worse to harm than to fail to assist, even if the outcome for the other party would be the same. Virtually everyone thinks, for instance, that it is worse to push a toddler into a pond, thereby causing the child to die, than to fail to pull a drowning toddler from a pond, even if he or she would drown if you did not. Indeed, in many cases it seems that it is wrong to harm, but not wrong to fail to assist. It would be wrong for me to burgle someone’s house, but not wrong for me to fail to pay for the homeowner to install a security system that would prevent an inevitable burglary by someone else. But even if we accept that harming is worse than failing to assist, what *counts* as a harm? Perhaps it is the case that, according to the right account of harming, we should consider any disadvantaging of foreigners brought about by a raising of trade barriers as merely the diminishment of a benefit, and therefore permissible?

¹⁷ Hirschman (1945, p. 15–16).

¹⁸ Nye and Keohane (1977).

Yet there are changes in commercial policy that would be designated wrong under even the most permissive account of the distinction between harming and failing to assist—where permissive is taken to mean affording a license to disadvantage if we take it that harming *is* worse than failing to assist. This is the counterfactual account.¹⁹ On this account, an employer does not harm an employee by cutting their wages if the employee is still better off than they would have been if the employer had *never existed*. Say that, for instance, the employee had already received high wages for a number of years, and being employed by someone else was never really a viable option. Were this the case, the employee would not be harmed by having their wages cut. They are still better off than they would have been if they had never encountered their employer. On the other hand, if that employee's wages were only marginally higher than if he or she had taken up other employment options previously available, and those employment options are no longer available, then the employee *is* harmed by having their wages cut. He or she is left regretting ever having encountered our employer.

Something similar can be said about the raising of trade barriers. If we accept a natural duty not to harm, then it is wrong to raise barriers to trade if this would leave dependent foreigners worse off than they would have been if our society had never existed. To give an example: say that country A and country B are closely trade interdependent. Country B supplies A with most of its agricultural goods, in particular bananas and coffee. However, one day A determines that it wishes to grow these sectors of *its* economy, and as a consequence, levels new tariffs on both bananas and coffee. It would seem that producers of bananas and coffee in society B might have a claim to have been wronged even if what little trade continues in these goods is conducted on non-exploitative terms. Say that there is a third country in this world, country C, whose people desire mangoes and tea. Further suppose that, had producers of

¹⁹ Kagan (1989, p. 94).

bananas and coffee in B specialised instead in mangoes and tea—which they would have had, let us say, if A had never existed—they would be much better off than they actual are given that A has raised barriers to trade. In a case like this, it would seem that A has net-harmed producers in B, and owes them something by way of rectification.

It might be thought that the natural duty not to harm others is a duty not to appropriate what they are entitled to (not to refrain from leaving others worse off than if you did not exist). And is not clear that producers are entitled to *future* trade offers or opportunities except in special circumstances (if, for instance, they have been promised them). It might also be thought that when we trade with someone—even on equitable terms—there is an assumed risk that the exchange might not be repeated. I do not seek to reply to either of these objections in full here. But I do suspect that one reason why we might not think that actors within a market should show special concern for dependents—even when market power is significant and the wrong we are concerned with is a plausible interpretation of harming—is that we when reflect on this matter we are, consciously or unconsciously, assuming background circumstances in which there is some institution to protect people against relationships of exchange coming to an unforeseen end. It is entirely possible that in a state of nature, or the anarchical international order that is the world of protectionist states, there would be a natural duty not to leave others worse off than if you did not exist, but that this duty is better delegated to a risk-sharing institution when this is possible. Within one society, that institution is the state.

It is also worth pointing out that even if we think that, in the right context, individuals and firms should bear the risk that some mutually beneficial relationship of on-going exchange will come to an end, it is not clear that the world of protectionist states is that context. Remember that there might well be putatively unfair international inequalities in this world that

will mean that otherwise similar persons face *different* pressures to take risks. Consider again our example of banana and coffee farmers in country B. If these persons were equally well-off as comparable members of country A, maybe it *would* be the case that, were A to net-harm B via a raising of trade barriers, producers in B would have no claim of injustice against A. But what if farmers in B are *already* unfairly worse off than comparable others in A, and believe that the best way to close this gap is to specialise in goods that members of A demand, even though this leaves them more vulnerable than they would be if they hedged their bets (continuing to grow some mangoes and tea for consumers in C, just in case)?

Finally, even if it were true that what counts as harming is not leaving another worse off than if you did not exist—but rather appropriating something to which they are entitled—and that no one is entitled to future trade opportunities merely because they are available at the moment—even if one is entitled to equitable terms when they are utilised—it might turn out that some global regime that shares the risk of being disadvantaged by other states raising trade barriers happens to be in every society's interest—or hypothetical interest in some more morally defensible choice situation (perhaps one in which representatives of societies behind a veil of ignorance know their comparative advantage, but do not know the probability that the goods they might produce will be subject to adverse adjustments in the trade policies of other states). If this is so, we might define harm as that level of disadvantaging that would trigger a need for compensation on contractualist grounds, with every society then bearing a responsibility to push for a global regime to prevent such harms and/or to compensate for them when they occur.

V. Trade Policy and Vulnerability to Exploitative Disadvantaging

Now, one might reject the view that a society wrongs foreign dependents if it net-harms them via a raising of trade barriers—as long as they were not led to believe that there was no risk of this—and still accept the claim I advance in the following section. Indeed, one might accept that a society wrongs foreign dependents if, via a raising of trade barriers, it leaves them worse off than they would have been if that society had never existed, and still suspect that there might be cases in which a disadvantaging of dependents that falls short of this is wrong.

Consider again the hypothetical example raised in the introduction, of a European nation that previously had little or no barriers to agricultural imports, but subsequently joined the European Union, thereby necessitating an effective raising of such barriers via subscription to the EU's Common Agricultural Policy. Now it seems to me that were foreign producers disadvantaged by such a move—which would necessarily be the case as long as they could be classified as dependents, on my definition—there might be circumstances in which it could justifiably be claimed that those producers were wronged even if their disadvantaging fell short of net-harm (as would be the case if the raising of trade barriers set back their interests, but not to such an extent that they ended up worse off than they would have been if our European society had never existed).

Say that, previously, our European society was less developed than most EU members, and thereby had little to offer them in accession negotiations. Further suppose that it eventually reached a position where it could successfully negotiate admission only because it had pursued a successful developmental strategy that relied on agricultural imports. Say that this development strategy was one of rapid structural change from a relatively-more to relatively-less agriculture-intensive economy, and that foreign suppliers of agricultural goods were critical to the success of

this strategy, providing food and raw materials for the rapidly expanding industrial sector. In a case like this, it seems as if foreign suppliers who were disadvantaged when our society joined the EU might have a claim to having been wronged even if they were not net-harmed.

Now, it might be objected that as long as foreign suppliers received a non-exploitative return on their goods while our society was undergoing its structural transformation, there can be no claim of injustice. In response, I would say that this might indeed be the case. For my point here is essentially about what we should count among the gains of exchange—what we should count among those benefits to be equitably divided in order to avoid the change of mere use. Now it seems to me that *future market opportunities*—even unforeseen opportunities to pursue goods of a different kind—ought to count about the gains of trade.

Sometimes this is obvious. For example, in seeking to determine what would be an equitable salary for a business school professor it seems sensible to count the new earning opportunities that an MBA affords among the gains generated by, the albeit indirect, economic exchange between professor and student. My point, however, is that we should count future economic opportunities in other cases too. Just so long as they came into being as a result of the cooperation of others, they are to be counted among the net-gains to be divided equally.

For further illustration, consider the case of a widget-producing factory that possesses monopsonistic power in the labour market. Now imagine that the owner of that factor is relatively benevolent, and seeks to evenly divide the gains of that business among all who make a contribution to its success. Further suppose that among the costs that he discounts in calculating the net-gain to be equitably distributed are expenditures on updating capital equipment. Each year, the factory-owner spends on new machines and parts in order to maximise the business's productive efficiency. Now, imagine that during one year there is a dramatic

technological improvement in widget machines—a labour-saving improvement that enables the factory owner, when he comes to update his equipment that year, to lay off the majority of his workforce. Because the factory is a quasi-monopsonist, remember, the workers cannot easily find other work in which they are trained, and so losing their jobs represents a significant loss. Nevertheless, say that these workers are not so badly off that they are worse off than they would have been had they never worked in the factory, instead specialising in some other occupation. Their wages were good enough over the years that they did have jobs that they do no regret their decision to become widget workers overall.

Now, it seems to me these workers might nevertheless have a justified claim to having been wronged, even if they do not have this specific regret. Suppose that without the hard work of his employees that year, the factory owner would never have been able to afford the labour-saving machines. Further suppose that, now he has drastically reduced his labour force, he earns a return several times greater than he did before, even once his remaining employees are paid their equitable share. It seems to me that to the extent that the cooperation of his original workforce was necessary in order for the opportunity to invest in labour-saving technology to arise, a standard of exploitation that requires an even division of *all* the gains of trade would give the workers some claim over the gains arising from that technology, at least in circumstances where they were previously paid a share that was equitable only on the basis that no such opportunity would ever arise.

All I am claiming is that a state may not behave in an analogous fashion with respect to trade dependents abroad—or to compensate them if it does. To the extent that a society is presented with a previously unforeseen developmental option—in circumstances where this options is only available because of what foreigners have supplied in trade—and taking

advantage of this option (by adjusting trade policy) would represent a loss to those very same foreigners, it is not sufficient merely to refrain from net-harming them. Ultimately, foreigners must be equitably rewarded for *all* the benefits that proceed from their cooperation—including benefits in the form of new market opportunities and developmental options.

Chapter 4 – A World of Bargaining States

According to the argument I made in the previous chapter, there are various moral constraints on a state's commercial-policy choice that are grounded on this choice capacity, given its implications for the economic prospects of foreigners. Specifically, I argued that, firstly, states must take care not to cause or exacerbate exploitation of foreign parties to trade through the leverage of market power. When a society is sufficiently large relative to the global market in a given good, it has the capacity to influence—via its tariff-level choice—the prices at which transnational trades in that good are concluded. Further, when a society is considering raising trade barriers above existing levels, it must take care not to harm foreign trade dependents—leaving them regretting that our society was ever open to trade—nor to exploitatively disadvantage them in making use of a developmental opportunity whose availability depended on their prior trade-cooperation.

However, the cross-border obligations entailed by these constraints are not the only relational obligations incumbent on states in our own world, and therefore not the only moral considerations that might need to be borne in mind when determining state policy concerning trade. This is because our own world is characterised by a multitude of transnational ties beyond those entailed by private exchange and commercial-policy choice. Any one of these might generate additional moral demands that are appropriately fulfilled via this policy. In this chapter, I focus on one of these ties—the tie entailed by *diplomatic intercourse between governments in the domain of trade*.

I am particularly concerned with the tie of treaty partnership. In revealing respects, treaties are akin to market exchanges.¹ Indeed, at least if we put to one side their domestic

¹ Hoekman and Kostecki (2009, pp. 28–29).

determinants and implications (particularly in distributive terms), they are analogous to bartered service exchanges. When two states sign a trade treaty, they commit themselves to a particular commercial policy in return for a similar commitment on the part of their treaty partner. Just as with a bartered service exchange between individual persons, such a commitment entails a cost: the state must sacrifice policy options that it would otherwise avail itself of, now or in the future. However, as with a bartered service exchange, treaties also proffer rewards. When a society seeks, for instance, market access to other societies, a treaty offers the prospect of a reciprocal commitment on the part of its partner that will enable such access.

It is on the basis of this analogy—between treaty and trade—that the key claims in this chapter are derived. Just as the tie of trade between private actors grounds a requirement to fairly distribute the gains of exchange—on pain of exploitation—the tie of trade between states grounds a requirement to ensure that the gains of treaty are equitably distributed. Indeed, it does not seem inconsistent with ordinary usage to talk of unfair treaties being “exploitative”. Given the role that commercial policy might play in promoting the common good and developmental goals, these gains are not reducible to private benefits of particular cross-border exchanges. Indeed, at least in our own world, it might be better to think of the set of commercial policies emerging from the network of treaties between states as establishing the background circumstances against which private exchanges might or might not take place.

And just as a private actor possessing market power would face a duty not to net-harm or exploitatively disadvantage trade partners by ending a relationship of recurring exchange, states must take care not to net-harm or unfairly disadvantage *erstwhile treaty partners* when, for instance, treaties come up for renewal or a secondary trade agreement is in prospect. No state should be left regretting it ever signed a particular treaty, and no society should be made worse

off for making available—via a period of trade on a given set of treaty terms—even better treaty options for its erstwhile treaty partner.

What this means, for our own world, is that each of us might be obligated to foreigners on more than the merely the basis that we play a role in shaping a commercial policy that determines the extent to which they might be exploited. Say that, as a consequence of market power, my state has the potential, via its commercial policy choice, to cause or exacerbate exploitation of members of society X. Even if I am not a trade participant myself, I owe foreigners who trade with my society a duty to seek to ensure that my society's policy choice does not lead to their exploitation. Now, additionally suppose that my country is in the process of negotiating a trade treaty, or is considering failing to renew a treaty, with X. In cases such as these, I do not merely have a political duty to those particular members of X who are tied to my society by trade, *but to everyone who resides X*. Given the role that commercial policy might play in promoting the common goals of a society *as a whole*—whether cultural, distributional, or developmental in nature—I have an obligation to push my government to adopt a position in trade negotiations that appropriately weighs the interests of *everyone* in a potential or erstwhile treaty partner.

However, the tie of treaty does not merely expand the scope of distributive concern in the sense that it entails covering even those members of treaty partners who do not themselves trade. In the non-ideal circumstances where one cannot rely on one's treaty partner to fulfil *its* obligations, the scope of distributive concern is expanded still further—specifically to cover foreigners in third-party societies who are dependent on one's treaty partner. The relevant concern is not to induce one's treaty partner to violate the moral constraints on commercial-policy choice outlined in Chapter by 3, by requiring such a violation as a treaty concession.

The claims that (a) states should ensure that any treaties they do sign are non-exploitative, (b) no state should net-harm or unfairly disadvantage treaty-partners who are dependent, and (c) states ought not to induce their treaty partners to violate the moral constraints on commercial-policy choice outlined in Chapter 3 constitute the core claims of this chapter. However, in this part of the dissertation I am not merely concerned with the moral implications of treaty cooperation. After all, diplomatic contact between states might be used to cajole as much as cooperate. Once countries have diplomatic contact, they can, for instance, threaten a damaging adjustment in commercial policy with a view to forcing a trade partner to either alter its trade policy or refrain from a desired alteration. They can threaten, in other words, trade sanctions. And they can make clear to their trade partners when a commercial-policy adjustment constitutes avoidable punishment, and what must be done for the punishment to be lifted. Even though this project puts to one side the negative externalities arising from trade integration—taking a natural obligation not to harm as established and instead looking to determine what duties beyond this there might be—we cannot ignore what David Baldwin has called economic statecraft.² This is for the simple reason that it is possible for two trade-integrated societies to be net beneficiaries of their relationship—each would be worse off, in other words, if the other had never been open to trade—while economic statecraft plays a role in how the gains of that relationship are distributed. Is it permissible, for instance, for a state to threaten a commercial policy adjustment that was within its rights in a world of protectionist states in order to secure a greater share of these gains? Yet in this chapter I argue that successful threats of this kind—or actual sanctions—are wrong when if they leave another society worse off than it would have been in the world of protectionist states. Specifically, I argue from an analogy with blackmail,

² Baldwin (1985).

which is normally considered wrong even within a relationship that is mutually beneficial overall.

By way of a brief outline, the remainder of the chapter is structured as follows. After the introduction, I outline the dimensions of the world of bargaining states—the hypothetical world that the reader should picture for the purposes of isolating the moral intuitions that are pertinent to the subject of this chapter. Then, I turn to my normative claims and their basis. I first discuss, in sections I and II, how the moral demands of beneficence, and those constraining trade-policy choice in the world of protectionist states, should be reinterpreted in light of political intercourse between societies. In section III, I examine economic statecraft, arguing that it is often wrong to use sanctions or threaten sanctions to redistribute the national gains of trade between two societies. In section IV, I discuss what scope states retain to pursue their interests via trade agreements, even given the moral limits already discussed. In sections V and VI, I turn to duties grounded on the treaty relationship. I argue that treaties ought to be fair, and offer a particular interpretation of what this requires. I further argue that states should (a) not net-harm or (b) exploitatively disadvantage dependent treaty partners via a *change* in policy, as might be the case when the gains of an existing treaty are undermined by a secondary deal with a third party. Finally, I discuss what duties states bear when their treaty partners cannot be relied upon to fulfil *their* obligations to dependents abroad.

A World of Bargaining States

The world of bargaining states is identical to the world of protectionist states in all but two respects. In the world of protectionist states, the reader will remember, the state of social-scientific knowledge was such that states realised the variety of goals that might be pursued via

commercial policy, and the range of plausible views about how to best promote those goals. States realised, for instance, that protectionist policy might be used to bolster economic sectors deemed of cultural significance—say traditional agriculture and cottage industries—or to limit income or occupational inequality, as well as to promote economic development. And they were aware of both developmentalist and neoclassical arguments for and against protectionism. Further, countries in the world of protectionist states possessed the bureaucratic potential to implement a commercial policy entailing a great or lesser degree of protectionism. They possessed the institutional capacity to, in other words, monitor and tax imports at the point of entry, and effectively prevent smuggling. Nevertheless, societies in the world of protectionist states still faced limits on knowledge and bureaucratic capabilities. In particular, they lacked an awareness or understanding of what might be achieved by attempting to influence, politically, the trade-policy choices of other states—involving either threats or offers—and faced communicative and other hurdles to establishing diplomatic contact. In contrast, there are no such limits on awareness or capabilities in the world of bargaining states. Governments realise the potential of economic statecraft, and recognise that mutual gains might be made via trade treaty.³ In addition, states have on-going diplomatic ties with one another, facilitating direct and rapid communication between governments.

Nevertheless, societies in the world of bargaining states do not possess the full social-scientific knowledge of our own world. Most importantly, they lack an understanding of what

³ While my analysis in this chapter and Chapter 5 tends to presume that the treaties being discussed are liberalising treaties, I do not mean to imply that these are the only sorts of potential trade agreements. I suspect that my analysis could also be adapted to a treaty between two states in which each offers export restraint. It is certainly intended to be able to cover such an agreement. Also, whether societies believe there is a potential for mutual benefit through a reciprocal lowering of trade barriers obviously depends on the ends they subscribe to, and well as their views regarding effective means. From a certain perspective, of course, unilateral liberalisation is always the best course of action, rendering the gains that might be made via trade agreements puzzling—see Krugman (1997). Also, note that even if there is a potential for trade agreements only because special interests domestically must be placated—an obvious departure from a democratic ideal into the realm of non-ideal theory—my claims as regards cross-border obligations are unaffected.

might be achieved by expanding the reach of trade treaties so as to simultaneously include two or more treaty partners, and of the pitfalls of bilateral bargains made without an understanding of these benefits. Besides easing the administrative burden on customs agencies, which might otherwise have to treat similar goods differently (depending on their country of origin) multilateral and coordinated treaties proffer at least two advantages over bilateral deals. First, the gains they proffer are less able to be undercut by secondary treaties. Unless a bilateral trade agreement contains something like the WTO's most-favoured-nation (MFN) clause, there is always a danger that the benefits it promises will not be realised if one or other party signs a secondary agreement with another country.⁴

Say that my country currently has a trade deal with country A, under which bananas from A are only subject to half the regular tariff. Now say that my country signs a new preferential trade agreement with country B, under which B's bananas are only subject to a third of the regular tariff. Although my country is fulfilling its treaty obligations to A to the letter, the benefits to A are diminished to the extent that producers in B now have a relative advantage in market access. Yet the greater the scope of a multilateral deal across countries, the fewer opportunities there will be for such undercutting deals, even if that treaty does not include a most-favoured-nation clause. This is simply because, the greater the scope of a treaty, the smaller the pool of third-party states with which secondary agreements might be made (at least while treaties remain in force). At the margin—as is almost the case with the WTO—there is no potential for deals of this kind.

⁴ The danger that bilateral bargains are susceptible to “concession erosion” or “concession diversion”, and that this danger might explain the advent of the MFN, as well as the multilateralisation of trade agreements, has received surprisingly limited attention in the economic literature on international trade—see Schwartz and Sykes (1997, p. 62) and Ethier (2004, pp. 313–314). But its bearing on ethical concerns is obvious. In general, what economic or other strategic reasons there might be for an MFN provision is still poorly understood (Hoekman and Kostecki, 2009, p. 43), although trade negotiators have long taken it to be important, perhaps in part for reasons of fairness.

The second benefit of multilateral treaties, of course, is that they marshal a greater enforcement potential. It is obviously much more costly to be sanctioned by a multitude, or even all, of one's trade partners, than to be sanctioned by merely a single trade partner. As such, multilateral agreements that specify a punishment strategy—or, at least, a punishment strategy of this kind—are more likely, all things being equal, to secure compliance with treaty commitments. Even if *no* state would cheat on a fair trade agreement merely because they could get away with it—all having an effective sense of international justice say—it is the threat of punishment that provides assurance that other states will fulfil *their* commitments, thereby providing even right-motivated states with a reason to abide by their treaty commitments.⁵ Further, to the extent that the institution charged with executing the punishment strategy is regarded as legitimate, punishments tend to carry greater weight because of the disvalue they are taken to convey.⁶

Because social-scientific knowledge in the world of bargaining states is not sufficiently developed to admit these two potential benefits of multilateralism, there can be no regional or quasi-global trade agreements—like those of the EU and WTO—in this hypothetical world. The world of bargaining states, in other words, is a world with the potential for *bilateral* bargains only. Further, because societies in the world of bargaining states lack this knowledge, the reader should exclude from his or her mind bilateral bargaining process or outcomes that might arrive at the benefits of multilateralism indirectly. The reader should not consider, for instance, bilateral bargains that include a most-favoured-nation clause, or a set of bilateral bargains between each

⁵ Rather than modeling the WTO as a solution to a prisoner's dilemma, as is usually the case, this approach models it as an assurance game. For the WTO as a solution to a prisoner's dilemma, see Trebilcock and Howse (1999, p. 7) and Hoekman and Kostecki (2009, pp. 146–149). For the problem of assurance in international politics see James (2012, pp. 103–112).

⁶ Note that we tend to regard a “fee” as very different to a “fine”, and react to these differently even when the monetary cost is identical. See Gneezy and Rustichini (2000) and Sandel (2012, pp. 64–76).

and every state in the world concluded simultaneously. These are matters that are better left to Chapter 5.

For the purposes of assessing the normative claims that I make in this chapter it might actually be helpful—given the analogy between trade and treaty—to think of the similarities between the world of bargaining states and a state of nature admitting the possibility of trade between individual persons. Given the limited number of countries in our own world, and the relative uniqueness of every country’s comparative advantage, picture a relatively sparsely populated state of nature, in which individual people have something more or less unique to offer. Some people are good at fishing, say, while others are good at gathering fruit. Some are clever, and can offer productive advice to others, while others are physically strong and skilled. Then, when I make some claim about what constitutes a fair deal between states, or would constitute wrongful action vis-à-vis an erstwhile treaty relationship, test this claim first against one’s intuitions governing interpersonal relations in this setting.

II. Beneficence and International Bargaining

Merely because a society has diplomatic contact with others does not, needless to say, relieve affluent members of that society of their duty to help those foreigners who fall below some absolute level of neediness—should they already have this obligation—either via transfer aid or non-exploitative trade. However, the potential to sanction other states, or to arrive at mutually beneficial trade-treaties with them, does raise the question of whether these tools might—or ought to be—used to alleviate neediness; and, to the extent that they are, what the implications might be for the way need-alleviation should be distributed. These questions are analogous to those we asked of private exchange in Chapter 2.

Further, the potential to impact the lives of needy people via the ending of an existing treaty relationship, or by undercutting a treaty with a significantly needy country by signing a secondary deal that gives a third party even better market access, raises the question of how a *change* in a country's treaty stance might be constrained by the demands of beneficence. Finally, there is reason to wonder how beneficence constrains a state in its trade-treaty bargaining given the potential to impact third parties. Just as one might need to be cognisant of the impact that the terms of a private exchange might have on the terms of exchanges between others—say the impact that the wage I pay my employees might have on what employees of others can expect to receive—states have cause to worry about the impact that the terms of its treaties have on the terms that third party states are likely to get.

Let us first consider sanctions as a means to further the alleviation of needs. Picture two states—already, say, with the trade policies that represent their best strategies in a non-cooperative context like the world of protectionist states—that have newly established diplomatic contact with one another. Further suppose that one of these states—state B—contains a significant number of needy people, and that the other state—state A—believes that the government of B would better serve its poverty-stricken citizens by altering its trade policy. Let us say that the political elite of A, which is a democracy, are almost all convinced that B should liberalise its commercial policy, on the basis that to do so would better promote economic growth. If it is able to do so, might it be permissible for A to compel B to alter its commercial policy via a threat to raise barriers to trade?

In many circumstances, this sort of behaviour in international politics is impermissible (see my discussion of economic sanctions below). After all, if a group of people determine—according to an appropriately democratic and rights-respecting procedure—a way of ordering

their common life that is different from that of a group of which I am a member, that is no reason to seek to alter that determination. Indeed, respecting that group's political autonomy requires abstaining from doing so.⁷ This is true, it would seem, even if my group is merely proposing to incentivise a change in that other group's determination *via otherwise permissible means*, as by external economic policy rather than force. Consider the following analogy from interpersonal relations. Say that I am a shop-owner in a majority Christian country, and decide to convert to Islam. Further suppose that a major customer, whose business ensures that my shop is profitable, threatens to stopping shopping at my store unless I convert back to Christianity. Most people, I think, would say that this customer does wrong, even if it would be permissible for him to shop elsewhere for *other reasons*, say because an equivalent store opened up closer to where he lives. In seeking to blackmail me in this way, he fails to respect to my autonomy.

Now something similar can often be said of analogous cases in international relations. Say that a country determines—according to an appropriately just and democratic standard—that it will protect agriculture and those industries that make use of traditional production techniques from foreign competition. These sectors produce goods deemed to be of cultural value, and provide the material basis for social practices of significance to many people in that society, such as festivals and sports. It would surely be wrong for another society to compel that country to reduce its protection of these sectors, at least if this were done purely on the basis that that other society considered the sectors being protected of no cultural value, or believed that privileging cultural over economic goals was irrational.

Yet there are cases, I would posit, where seeking to compel other states is permissible, or even obligatory. Say that a foreign society has a multitude of people in dire poverty. Further suppose that that society is not a democracy, and is ruled by an unrepresentative and repressive

⁷ Walzer (1980).

regime. Also imagine that our society is a democracy, and almost all of the people in our society with relevant expertise believe that that foreign society could alleviate the burdens of its worst off citizens by altering its trade policy. Assuming that it was possible to induce that foreign society to alter its trade policy via a threat to do the same, wouldn't it be permissible to do so? Indeed, it would seem that beneficence would require such a move—as long as it was permissible—as it would entail the alleviation of additional need for no additional sacrifice on the part of the affluent.

Now consider trade *agreements* as a potential means to advance the interests of the foreign poor. Just as affluent individuals might further the interests of needy persons via trade rather than transfer, richer states might promote the interests of the foreign poor via treaties with their governments rather than via, for example, unilateral opening of their market. Say that a certain lowering of tariff barriers by the United States and European Union would advantage generally needy societies abroad, by providing market access to their agricultural producers and workers in textile factories. Might the demands of beneficence be violated if this lowering were made conditional on generally needy states adjusting their commercial policy in some way?

While furthering the interests of the foreign needy via treaty is not impermissible—and may indeed be required if more can be achieved for requisite sacrifice thereby—I would argue that affluent countries have moral reason, in general, to be cautious when attempting to utilise treaties to further the interests of the foreign needy. Given the similarity between public treaty and private trade, there are analogous moral constraints on the former as the latter. First, an affluent society may not use the refusal of treaty offers as an excuse for limiting what it sacrifices on aggregate, even if it believes that the terms it prefers are such that the foreign needy would benefit to a greater degree thereby.

Second, affluent societies must ensure that any treaties they do sign with generally needy-countries are not exploitative. Importantly, this does not merely mean that affluent societies must ensure that any treaties they do sign not give rise to private exchanges that are exploitative—private exchanges that, in other words, render poor trade-participants with a lower share of the gains of trade than that which would minimise their needs. As trade treaties bind *entire societies* to one another—via the role that trade policy places in shaping the prospects of *everyone* in a country—they ground obligations to more than merely trade participants.

Picture a prospective treaty between a generally rich and generally poor country entailing trade liberalisation on both treaty partners' parts; and which would thereby, let us say, enable needy exporters in the latter to escape absolute poverty. Such a treaty may nevertheless be exploitative if it would limit the poor-country government's discretion in such a way that it could not serve other of its needy citizens. Say that—to give an example that is pregnant with implications for our own world—that poor country's bureaucratic potential was limited such that raising revenue via taxes rather than tariffs was impractical. And that without sufficient tax revenue, it couldn't invest in health and education—those services of vital interest to the poor in general. In such a case, a *treaty* might be exploitative even if no individual transaction across borders was.

In a world of international bargaining, however, states do not merely need to be concerned about the ability of their current treaty partners to meet the basic needs of their citizens. They also have cause to be concerned with *erstwhile and former* treaty partners. When two countries are party to an international agreement for some period, there are inevitable structural implications for their respective economies. To the extent that dependencies develop, a country has cause to be concerned—on the basis of beneficence alone—with how the *severing*

of that relationship would impact the poor. Indeed, given the potential for the gains made under bilateral bargains to be eroded by secondary deals, beneficence would also demand that states worry about how any prospective deal would impact need alleviation in current treaty partners (again, regardless of the extent to which needy persons themselves participate in trade; treaty commitments mould a state's *basic structure*, thereby implicating all its citizens).

Finally, picture circumstances in which a state possesses market power not merely in the sense that its commercial policy will mould the world price of traded goods, but in the sense that its treaty stance *shapes the terms on which other states conclude bilateral deals*. Beneficence is a duty that, in the first instance, is owed to the poor in general—whether one is tied to them cooperatively in some way or not. As such, a powerful state has reason to be concerned if by negotiating one or more treaties on a given set of terms—even if these terms are not exploitative of its treaty partner or partners—suppress the “price” of trade treaties in such a way that third-party states face a diminished capacity to meet the needs of their worst-off citizens.

II. Trade Policy and International Bargaining

Merely because a state has diplomatic contact with other states—and might sanction or sign trade treaties with them—is no reason to think that the moral constraints on commercial-policy choice outlined in the previous chapter no longer apply. While there are moral demands grounded on political intercourse—or so I argue in the core of this chapter—that is no reason to believe that states which are bound in this way are *only* constrained by these demands. To the extent that the cross-border ties examined in previous chapters are in place, the obligations grounded on these ties pertain regardless of what other ties there might be. As such, the constraints on a state's commercial-policy choice that are grounded on this choice capacity—given its external effects—

still pertain in the world of bargaining states, establishing a minimum threshold to govern state policy in international bargaining. No state, in other words, may be party to a treaty under whose terms it must make concessions that would violate its obligations in a world of protectionist states.

But what exactly does this mean? Consider, first, sanctions, which I discuss at greater length in section III below. Here, I argue that it is often wrong to threaten an adjustment in trade policy—or to act on such a threat—in an attempt to compel or deter other actors in their trade-policy choice. For to do so, when it *is* wrong, is akin to blackmailing someone who is merely a “harmless parasite” (to use Joel Feinberg’s terminology)—someone who is an innocent beneficiary, via a positive externality, of the pursuit of one’s self-interest. However, even were the analysis in this section of the chapter wrong, it might still be the case that to sanction another state is impermissible (even if threatening such might not be). For the argument I made in the previous chapter implies that it is wrong to adopt a trade policy that would cause or exacerbate exploitation, leave trade-dependent persons abroad regretting that our society was ever trade-open to them, or exploitatively disadvantage them given the role they have played—via their trade to date—in putting my society in a position to, in this case, successfully sanction. It is normally wrong, in other words, to commit wrongs like this in implementing a sanction, or as punishment for failing to heed a threat.

Consider, also, trade treaties. Say that society A is considering signing a particular treaty with society B. Although the change in trade policy entailed by the relevant treaty commitment would not disadvantage B as a whole—at least not on the view of its government—A might still have reason to be concerned that it would violate the constraints on commercial-policy choice outlined in Chapter 3. This is for two reasons. First, these constraints embody obligations to

individuals abroad, not societies. Even if, in other words, B determined—whether via an appropriately democratic process or not—that a particular treaty would be beneficial overall, A might still need to amend its terms to ensure that it does not violate obligations owed to particular citizens of B (if the treaty is to be signed at all).

More importantly, selective or preferential changes in trade policy—as when market access is extended to a treaty partner, but denied to others—might lead to the obligations outlined in the previous chapter being violated vis-à-vis *third parties*. Say that A is considering a treaty with B that would entail a lowering of tariffs with respect to goods or services from B only. Even if this agreement would be to the benefit of B—and would not entail exploitation of trading members of B—exporters in *society C* might be disadvantaged via trade diversion, even though the tariff rate on their goods remains the same (in absolute terms at least). In an global context that allows for international treaties, in other words, states might fail to fulfil the duties grounded on a capacity to exercise a commercial policy even if they do not, for instance, *raise* trade barriers, but merely lower them selectively. As such, when a society is considering signing a bilateral trade agreement, it must ensure that the terms would not require a change in trade policy that would net-harm trade dependents in third-party states (leaving them worse off than if that society was, and had always been, closed to trade) or exploitatively disadvantage them (given the role they have played in placing that society in a position to treaty in the first place).

III. Economic Sanctions as Blackmail

It might be thought that the use of trade policy for coercive purposes, or as a means to influence the commercial-policy choices of other states, is impermissible under all circumstances. If there is a natural duty to refrain from harming, or induce compliance by threatening such, then surely

levelling economic sanctions, or threatening to do so, is *always* wrong. However, it would be incorrect to reason thus. Even given a natural duty not to harm, it does not follow that sanctions are always impermissible. First, there are obviously likely to be non-ideal cases—i.e. cases in which other actors cannot be relied upon to do the right thing—where it is likely to be permissible to threaten harm as a means to incentivise compliance, or to level proportionate harm by way of punishment. (I briefly discussed how sanctions might be used to further the interests of the foreign needy above.) More importantly, however, even if we restrict our focus to ideal circumstances for a moment, it is clear that there might be cases of sanction where the relevant disadvantaging of foreigners would fall short of entailing net-harm or exploitative disadvantaging. And the reader will recall that, in the world of protectionist states at least, it was permissible to adjust trade policy if it didn't have these consequences (worries about exploitation prices in private transaction to one side). It is an open question, in other words, whether seeking to influence other states by threatening to adjust trade policy in a way that would otherwise be permissible—or acting on that threat—is wrong.

For illustration, consider the following scenario, in which trade policy is used in an attempt to compel. Picture a pair of trade-integrated states that have just established diplomatic contact with one another. Further, suppose that both states, having just exited a relationship of a form modelled by the world of protectionist states, have the commercial policies that represent their best strategies in this world. Now, imagine that state A threatens to raise barriers to trade with respect to B, unless B lowers its own barriers. Perhaps A threatens to level higher tariffs on wine unless B lowers its tariffs on wheat. Such a move would be sub-optimal for A—at least if could not induce B to change its own choice thereby—given that it already has the trade policy that represents its best strategy in a non-cooperative environment. Nevertheless, B might find

this threat credible, for a variety of reasons. It would certainly be credible if the costs to B of this move would be such that—were A’s threat carried out—B would face critical pressure to relent before A would. Yet also imagine that A’s threat would not, if acted upon, cause or exacerbate exploitation of trade-dependent persons in B, or leave them regretting that A was ever open to trade. Imagine, in other words, that what A is threatening is a change to its trade policy that would be *permissible in the world of protectionist states*. Is it wrong for A to make this threat, or to carry it as part of a process of wrestling a greater share of the gains of trade from B?

Yet even if this move on A’s part would be permissible in a world of protectionist states, it would be wrong to threaten such a move merely in order that A gain a greater share of the gains of trade, unless, that is, A is already owed this greater share (which we have already supposed is not the case). Of course, merely because states have diplomatic contact with one another is no reason to think that some policy choice, which would otherwise be within a state’s right, is impermissible. As such, A may still, in the world of bargaining states, raise trade barriers in the way identified above should it appropriately determine that this would be in the best interests of its citizens.⁸ If, in other words, A would have made a trade policy adjustment of this kind even where A and B still in a world without the potential for diplomatic contact, then it may proceed with the adjustment. But to threaten such an adjustment or carry it out merely as a means to manipulate B’s policy would be wrong on the basis that to act in this way would constitute blackmail.⁹

⁸ That the motive for an action in international politics might be thought to play a key role in determining how we ought to see that action from a moral point of view is a relevant thought. For example, Ruth Sample (2012, pp. 105–107) has argued that whether the conditions that the IMF attaches to its offers/threats are coercive or otherwise wrongful depends in part on whether the conditions go beyond “safeguarding the use of IMF resources”. Dietsch and Rixen (2012) defend that view that what motivates a policy that attracts (“poaches?”) capital from abroad matters in terms of justice.

⁹ Whether blackmail is wrong is, of course, itself open to dispute. Libertarians argue that two rights (i.e. permissible acts) cannot make a wrong. How could it be permissible to disadvantage someone in a certain way, yet not to demand payment not to disadvantage them when it would be permissible for them to gift you the money? On the

Consider an analogy. Say that I have a wonderful view from the window of my house. In part, my view is so good because of my neighbour's beautiful garden. I am clearly, therefore, a beneficiary of my neighbour's love of gardening. I am, in Joel Feinberg's terms, a harmless parasite. But my view is further enhanced by the mountains that I can see beyond. Now, imagine that one day my neighbour knocks on my front door, and threatens to plant a tree in his garden obscuring my view of the mountains unless I agree to mow his lawn for free every Saturday. He would prefer, on his own part, not to plant the tree. He likes his garden best exactly as it is. But planting a tree on his own garden is clearly within his rights. And he realises that doing so would seriously worsen my view, giving him significant leverage over me. Further suppose that I would be better off allowing him to blackmail me in this way—despite no longer being able to see the mountains—than I would be if, in a fit of pique at my refusal of his demand, he decided to move house, leaving his garden to go to seed. Now, surely my neighbour wrongs me if I am induced to mow his lawn for free every Saturday, at least as long as there is no other basis on which I might already owe my neighbour assistance of this kind.

This is analogous to our scenario involving A and B above. Both societies benefit one another, in the sense that each would be worse off if the other did not exist, regardless of the policy terms that determine how benefits are going to be divided between persons and societies. But as long as gains of interpersonal exchange are equitably distributed, and even if there is no treaty commitment between the two states, seeking to shift the terms of trade in your favour without offering anything in return manipulative.

paradox of blackmail, see Feinberg (1988). Economists and legal scholars in the economics and law movement have argued that permitting blackmail incentivises people to seek opportunities for blackmail rather than engaging in genuinely productive activities. However, a deontological argument of relational form can also be offered: blackmail is an even purer form of *mere use* than exploitation.

IV. Trade Agreement Right

As long as the demands of beneficence are satisfied, and the constraints on commercial-policy choice discussed in the previous chapter and in section II above are not be violated, a society in the world of bargaining states is free to pursue whatever trade deal or deals it holds to be in its best interest. Some potential deal *terms* will be off limits, so to speak, on the basis that such terms would be exploitative (as discussed in section V below). And whenever a state is considering signing a new trade deal, or failing to renew one, it must be sure that it does not harm or exploitatively disadvantage existing treaty partners who are dependent (as discussed in section VI below). But this does not mean, needless to say, that it would be wrong for a society to shop around in order to find those (equitable) deals that are to its best advantage.

There is no duty in the world of bargaining states to, for instance, opt first for a treaty with that other society which is most disadvantaged on some metric, so as to reduce inequality between societies. For this would be analogous to making the implausible claim that, for instance, employers domestically are under an obligation not merely to pay their workers an equitable wage—given the value they generate for the business—but, when hiring workers, to start with that individual who is the most disadvantaged, regardless of how well-suited that person might be, given their talents, to the relevant employment. But just as no employer is obliged to act in this way (at least as long as the demands of beneficence are satisfied)—and, indeed, no individual is obliged to purchase a less preferred good or service merely on the basis that the provider would otherwise be relatively disadvantaged—no state is obligated to opt for one fair treaty over another merely on the basis that doing so would reduce inequality between societies.

It might be objected that while we do not commonly think that individual persons or particular firms have an obligation to act in this way, we are all nevertheless under a political obligation to push for an order that does not allow for economic inequality as a consequence of morally arbitrary factors. For instance, while I am under no obligation to frequent a less well-stocked grocery store merely because the proprietor of that store would otherwise be less well-off than an equally motivated and (inherently) talented proprietor of a better-stocked store, I am under a political obligation to support and uphold a *political* order that does not allow an inequality between these persons. Yet I replied to these objections as extensively as I was able to in chapters 1 and 2, and there is no reason to think that merely because states might bargain with one another (but have not as yet) things might be different. I therefore refer my reader back to the relevant passages of these chapters.

V. Exploitative Trade Agreements

In Chapter 2, I argued that an exchange between private actors generates a duty incumbent on the more powerful party to that exchange to ensure that its terms are fair. Merely because terms were or might be consented to that would render less than an equitable division of the cooperative surplus is no justification for exploitation. This is true, I argued, even if there are no natural or other relational duties that have gone unfulfilled; for exchange brings into being a relation of usage—a relation that has the potential to be wrongful—that would not otherwise exist. I further claimed, in Chapter 3, that states should not cause or exacerbate exploitation in cross-border exchange via their commercial-policy choice. In practice, this obligates members of affluent democracies (even if they would not themselves trade with foreigners under any commercial policy) in their political capacity.

In a world in which states sign trade agreements with one another, however, fairness concerns are not restricted to private exchange. This is because treaties might themselves be exploitative. It is important to specify at the outset what I mean here. I do not merely mean that it is impermissible for an affluent state to sign a treaty that would lead to a change in its commercial policy that would, given that state's market power, cause or exacerbate exploitation in *private exchange*. This much I have said already, and there would be no need to repeat it here. Rather, my concern here is with exploitation *between societies*.

Say that (democratic) country A is considering signing a trade agreement with country B. As this is a liberalising agreement, ties of exchange between members of A and members of B will come into being—were that trade agreement signed—that would not otherwise exist. Now, citizens of A, or their representatives, obviously must seek to ensure that its treaty commitment not lead to exploitation of dependents. This is likely to be a particular concern with respect to dependents in *third-party societies*, as a lowering of barriers to trade for members of B may well entail an effective raising of barriers with respect to trade dependents in other societies (as discussed under II above). And to the extent that the new trade ties between members of A and members of B that would be called into being under that treaty ground obligations, in and of themselves, they are obligations to trade-participants in B only.

But this is not *all* citizens of A have reason to be concerned about. To the extent that a state's treaty commitments limit the tools at the discretion of that government to serve domestic goals (whatever they may be)—and shape the structure of its economy, in particular what might be called its specialisation profile (the relative size of different sectors in that economy and the number of people they employ)—these commitments are part of a society's basic structure.¹⁰ And the basic structure of a society, by definition, has implications for *all* of that society's

¹⁰ James (2005).

citizens. As such, citizens of A have reason to be concerned not merely with the impact that a prospective set of treaty terms would have on trading members of B, but on *everyone* in that society.

A trade agreement is unfair, and thereby exploitative, if it maldistributes—from the moral point of view, that is—the national gains of treaty. In the first instance, I am concerned with how these gains are to be distributed across treaty signatories. But what constitute “national gains”? When a state signs a trade treaty, some of its citizens might profit, but others will bear costs—at least in the absence of compensation or assistance. When, for example, the United States lowers tariffs on manufactures, consumers profit via access to lower-cost goods, but the wages of factory workers stagnate. Given the differential effect of a treaty commitment on distinct citizens, does it even make sense to speak of national gains?

For the purposes of this project, I take it that we can speak of such gains—or, indeed, losses. However, we have reason to be cautious. Merely because the actual government of a real country would consent to a treaty with a given set of terms should not be taken as implying that that treaty would even be beneficial to that country as a whole (let alone equitable in dividing treaty gains). After all, that government’s determination—and/or the process by which it arrived at that determination—may not have been right in the relevant sense. It may not, in other words, have taken into consideration the interests of each and every of its citizens in quite the right way. Yet it would be presumptuous to assume some metric of treaty gain—say national income, community surplus, or the rate of economic growth, as welfare economists do. Not only is there reasonable disagreement about which of these measures best reflects whatever economists happen to be concerned about. In addition, none take into consideration the distribution of benefits. To the extent that citizens owe one another an equitable net-gain from public goods (as

discussed in Chapter 1), or choose to limit inequality democratically, these measures will be inadequate. Further, none take into consideration cultural reasons that a country might seek to limit trade. Say that a particular treaty *would* promote national income, and any gainers domestically would compensate the losers. This does not necessarily mean it would be worth the cost to economic sectors of cultural significance. Nor, more importantly perhaps, does it necessarily mean that it would be worth the adverse effect on the socio-economic distribution.

For the purposes of this chapter, therefore, the reader should take it that what would constitute a gain via treaty, and what would constitute a loss—both in the world of bargaining states and our own—is not prescribed.¹¹ It is, rather, up to every society to decide for itself what would constitute the benefits and costs of a treaty, as well as how to balance these benefits and costs—both internally and against each other, given the fact of their distribution across persons—according to an appropriately democratic and rights-respecting procedure. For much of this section of the chapter I will take it that the societies I am considering are democratic. This is not because I think that this best represents the countries of our own world, but to enable me to talk coherently about distributing treaty gains across societies at all.

Before moving on to a discussion of what an equitable division of treaty gains would *be*, there is one finally thing to note about the nature of benefits accrued under a trade treaty. Even if we were purely concerned with economic benefits, it would remain the case that the gains of trade-treaty are not reducible to the private gains of particular transactions that would come into being under that treaty. This is for two reasons. First, in international trade theory, free trade is

¹¹ Here, I differ from Aaron James (2012, p. 167), who sees trade agreements as inherently about increasing national income. I differ from James for the following reasons. First, while augmenting national income is often the prime concern in trade negotiations, this is not necessarily the case. What we need is analysis that can equally be applied when what motivates trade treaties is *political* (securing international peace, for instance). Second, even to the extent that augmenting national income is the primary concern in trade negotiations, it is not the only concern (particularly on the cost side). There are also cultural and distributional concerns that may or must factor into a country's determination.

seen as beneficial primarily because it allows for national specialisation—according to comparative advantage, at least under *laissez faire*—not because it allows persons to exchange who otherwise could not *per se*. The shift in an economy’s specialisation profile that would occur under a treaty, in other words, accounts for most of what economists would consider beneficial from liberalisation, not the facilitation of whatever exchanges would occur in the absence of such a shift were it not for trade barriers. And a country’s specialisation profile, of course, has significant implications for its growth prospects. Some sectors and goods have demonstrated greater potential for total factor productivity gains via technological uptake than have others. Second, international trade has a tendency to facilitate technology transfer. To the extent, then, that a liberalising treaty would increase such flows, there would be economic gains to the economy as a whole. In each of these ways, then, the gains of treaty are not reducible to the sum of the gains accruing to traders under that treaty, and when a state signs onto a trade treaty has reason to be concerned for its implications for its treaty partner as a whole.

Now, what would be an equitable division of the gains of treaty? Here, I offer an analogous answer to the answer I offered with respect to private exchange in Chapter 2. The gains of treaty must be divided *equally*, unless some special consideration (such as the extreme poverty of one treaty partner’s citizens) warrants a departure from that standard.¹² When my government signs a trade treaty with another country, in the common interests of myself and my compatriots, I indirectly enter a cooperative relation with citizens of that country. Part of how well my life goes, and that of my compatriots, is a consequence of the restraint of foreigners in supporting and adhering to that part of their political order that represents a treaty concession—a treaty commitment—to us. (Indeed, they are similarly situated with respect to me.)

¹² Loriaux (2012, p. 31); James (2005, p. 549); Moellendorf (2005, pp. 149–150).

Now, this is clearly a relationship of use, under the common understanding of that term. However, not all relationships of use are problematic, as I have discussed previously. I only wrong another if I use them as a *mere* means, failing to recognise their interests adequately when I do cooperate with them. As long as my compatriots and I cannot be accused of exploiting *them*, but merely exploiting the opportunity to cooperate, there is nothing problematic about that. As long as we are to be considered moral equals then, an equal division of the gains of treaty is appropriate.

As in the case of private exchange, it is important to remember that what is to be divided equally is *net* gains, not merely benefits were costs ignored. And because it is up to the government of every country to determine what is to be considered costs for *it*—according to an appropriately democratic and rights-respecting procedure—it might even be the case that a country gains significantly in national income terms but is nevertheless exploited. Say that a country’s government reluctantly signs onto a trade agreement, seeing few alternative avenues for advancing its interests, but is nevertheless worried about what the implications of that treaty will be for its most vulnerable people and cultural vitality. Even were that country to gain significantly in national income terms, its treaty partner might still exploit it as long as it did not factor those costs into the equation.

Second, net gains are to be assessed by contrasting how well off a country would be (according to its own democratic determination) under a given set of terms with how well off that country would be at the right baseline. And as long as one accepts that the “market price” (in terms of trade-policy concessions) might itself be exploitative, a country’s *actual* BATNA may not be—and is unlikely to be, in our own world—the right baseline to invoke. The basic thought here is that when a country is negotiating a treaty, it ought not to consider the best terms

it could get in a deal with another country as necessarily its threat point (the point at which it would exit negotiations), as this alternative option might *itself* entail exploitation.

The best way to explicate this point is by way of analogy. Consider interpersonal trade again. In this context, it is often assumed that the range of mutually beneficial prices amongst which a fairness principle is to choose is necessarily delimited by the parties' respective *reserve prices*—the threat points that members of *homo economicus* would choose. Say that I am in a second-hand bookstore and spy a title that I mean to purchase. However, I know that I can get this particular text for \$10 on Amazon (including shipping!). Ten dollars is, thereby, my reserve price, at least if I am a good member of *homo economicus*. I would be prepared to purchase the book in the store if it were priced \$10 or less, but not if it cost more. Now say that the owner of the bookstore knows that he will make a loss if he prices the book at less than \$10. Then his reserve price is \$10 too: he would be prepared to sell for any price \$10 and above, but not for anything less. Now, on this account, the range of prices at which a mutually beneficial deal might be concluded—and between which a principle of substantive fairness is to choose—is the range between \$10 and \$10. In other words, there is *no such range*, and talk of what would be an equitable division is beside the point, even if it is of philosophical interest.

But notice that this account ignores the possibility that the alternative options associated with the respective reserve prices would themselves, if chosen, entail unfairness.¹³ Say that buying the book for \$10 on Amazon would entail exploitation of *that* seller, or, less plausibly perhaps, me. If the former were the case, then a *comprehensive* account of substantive fairness in exchange would specify a higher reserve price, whereas if the latter were the case, such an account would specify a lower reserve price. Or say that instead, or in addition, for the owner of

¹³ A need for an alternative account of fairness in dividing the gains of cooperation that takes account of this objection is implied, I think, by Gauthier (1993).

the bookstore to sell the book for \$10 to someone other than me would entail exploitation of *that* person, or, indeed, of the seller. If the former were the case, then a comprehensive account of substantive fairness in trade would specify a lower reserve price for the seller, whereas if the latter were the case, such an account would specify a higher reserve price for the seller.

Now, the international market for trade treaties—even if bilateral treaties were the only possibility (which is not the case, of course, in our own world)—is not perfectly competitive. There are only 195 possible treaty partners that any one country might engage with, not an infinite number of such countries. Further, given the more-or-less unique specialisation profile of every country in the world, the number of other states than any one country might profitably treaty with is likely to be much smaller still. This will mean that when any two countries are negotiating a treaty with one another, there will always be a range of terms on which they might benefit one another. This gives us some range over which to talk about equitably distributing gains. Nevertheless, there is still reason to think that this range might not be great enough still.

In Chapter 2 I briefly offered a view of what I thought would be the right baseline to use when computing gains in private exchange. I argued that the right baseline is not one's actual reserve price, but the reserve price that one would adopt *if one's prospective exchange partner was the only actor (besides, perhaps, oneself) in a position to provide you with the relevant good*. This leaves a lot of very difficult matters to be determined. Most importantly, what are we to count as the “relevant good”? Say that, returning to my original example, you are considering hiring me to work in your store. Say that this store is a convenience store and my job would be stacking shelves. Even if it is not necessarily fair to weigh my gain relatively to the best set of work terms I could get elsewhere, am I to consider the gain that I would get working at any given wage relative to the case where there is no work at all (I must work for myself), or

merely relative to the case where there is not *store-work*? Or perhaps the relevant good is work in *convenience stores* only? Or, indeed, *shelf-stacking jobs in convenience stores*? The more narrowly we define the good, the closer the baseline will approach the market price.

This is a very difficult issue. Nevertheless, I am tempted to say that in the international realm we should say that the relevant good is a trade treaty, not some particular sort of trade treaty—say all trade treaties that would entail an adjustment in a country’s specialisation profile of a similar kind (say towards agriculture), but not trade treaties that would entail an adjustment of a different kind (say towards mining). And so the baseline we should consider as appropriate for a country to adopt as its threat point in international negotiations is not the best set of treaty terms it could get elsewhere (except via coercion or trade-sanction blackmail), but rather how well it would do were it not to treaty with *anyone*. The appropriate baseline, in other words, for computing treaty gains in a particular bilateral treaty is how well off that country would be in the world of protectionist states (although not under economic autarky as such). And, when negotiating a treaty, countries should take *this* as their threat point, and should not seek to play off countries against one another in order to reap a greater share of the gains of treaty than they otherwise might.

Picture, then, two countries negotiating a treaty with one another. Each adopts as its threat point not the best set of terms (even non-exploitative terms¹⁴) that it could get elsewhere, but rather how well off it would do under political (although not economic) autarky. How should these gains be distributed? It might be tempting to leave it entirely open how the gains of treaty ought to be divided, or to say that equitable terms are whatever terms happen to be agreed

¹⁴ According to the view offered here, non-exploitative terms that might be arrived at with others may not be used as the baseline from which to assess what would constitute the gains of a particular treaty, as this may skew the division of treaty gains away from what would be an equal division properly considered once that treaty is actually signed. Nevertheless, beneficence to one side, no particular treaty is obligatory. So, if better non-exploitative terms can be found elsewhere, it is permissible to opt for that deal instead.

to. But this wouldn't be adequate. Even if we level the bargaining inequality that arises when states possess an unequal capacity to trade potential treaty partners off against one another, there might remain a bargaining advantage. And it is difficult to see how taking advantage of this leverage, when it would enable a country to skew the division of treaty gains away from substantive equity, rather than towards it, can be squared with a fundamental commitment to treating persons as equals.

Say that one of our two countries would do much better under political autarky than the other. It might use this advantage to its benefit in treaty negotiations by threatening to end the negotiations if it doesn't get exactly the terms that it wants. Strictly speaking, of course, a threat to exit negotiations purely because you don't get the terms that you want, when *any* terms within the relevant range would benefit you, ought not to be credible. To the extent that treaty negotiators cannot be sure of the "rationality" of their negotiation partners, however—and given behavioural evidence that persons are willing to walk away from being benefited if they don't benefit sufficiently—this might indeed be used to skew the distribution of treaty gains.

Indeed, no other advantage that one set of negotiators might have over the other seems to justify an unequal division of the social surplus arising from treaty. Say that one set of negotiators are better trained and aggressive, and are aware of what psychological tricks might be played to gain an advantage. Or say that one set of negotiators is better resourced and informed about all the implications there might be of a concession under every conceivable set of terms (there is certainly an inequality of this kind among representatives of countries at the WTO, where some countries have been unable to afford permanent representation). None of these grounds seem relevant. Indeed, it might even be thought that utilising psychological tricks to ensure that one's society receive an equitable share of the gains of treaty—in the non-ideal

circumstance where one's treaty partner cannot be trusted to afford you this otherwise—might be though morally suspect despite its worthy objective. It seems then, that treaty gains ought to be distributed *equally* (relative to the baseline in which both treaty partners have no political relations with one another—although there might be ties of interpersonal trade) and that any bargaining advantage that one side might have over the other can only be utilised to *achieve* an equitable division, and even then this is hardly ideal.

Now, it might be objected that prescribing equality threatens to obviate democratic deliberation between parties to a trade agreement. But this is far from the case. For a start, saying that gains ought to be distributed “equally” leaves a lot to be determined. In Chapter 2 I noted that even if we were merely talking about dividing *economic* gains—which in this context might mean increases in income per capita, or the growth rate—there is going to be disagreement on what metric to use. Indeed, there is the question of whether we should use an objective metric (like per capita income gain at purchasing-power-parity) or seek to secure, as best we are able, an equal division in subjective terms (of utility gains, or proportionate utility gains, say).

In the context of international trade negotiations, however, there is the added complication of non-economic costs, political benefits, and distributive obligations among compatriots, all of which societies have a right to determine *themselves*. And this is merely on the philosophical side of the equation. There are going to be very real divisions in social-science about what the impact of any particular treaty concession might be in terms of the all the range of things treaty negotiators will, and ought to be, concerned about. These divisions are magnified to the extent that determining the impact of a treaty means attempting to *predict*, rather than merely seeking to explain after the event.

What this points us towards is a standard according to which negotiations abide by an appropriate norm of public justification—within the bounds set by how well each society would do in the world of protectionist states (no negotiator need justify a set of terms that wouldn't address a pre-existing inequality, beneficence to one side)—where “equality of gain” is the premise from which negotiators develop their arguments rather than the trump card that precludes discussion.

VI. Concession Erosion and Dependent Societies

In Chapter 3, I argued that when a society is considering raising barriers to trade, it must take care not to harm foreign trade-dependents—those individuals abroad whose wellbeing depends on maintaining their trade ties with that society. Here, harming is defined as more than merely disadvantaging relative to the *status quo ex ante*, as this would entail a general prohibition on raising trade barriers, which is implausible. If it is not wrong for me purchase less from some store than I previously did—in most circumstances at least—why would it be wrong for a society to act analogously? Rather, to harm is to leave persons with whom a society previously traded *worse off than they would have been if that society was, and had always been, closed to trade*. Given the opportunities that foreigners forgo—either entirely (due to economies of scale or a high minimum efficiency scale in a sector where an opportunity was located) or partially (given a lost chance to have become more efficient in an alternative role that is, nevertheless, still available)—when they decide to specialise in a good that makes them dependent on my society, my government should ensure that any change in trade policy not leave foreigners worse off than they would have been if they had taken the best of these alternative opportunities instead. Indeed, I further claimed that there might be disadvantagings of dependents via the raising of

trade barriers that might be wrong even if they fell short of net-harm. Specifically, I argued that it is wrong to disadvantage dependent foreigners without compensation by taking advantage of an unforeseen developmental option that was only available because of their prior trade-cooperation. (For simplicity's sake, I will consider only the first wrong in this section, but an analogous argument can be made with respect to the second.)

Now, in the world of protectionist states, these constraints on adjusting trade policy only encompassed the interests of foreigners directed tied to my society by trade. They did not encompass, significantly, the interests of foreigners who were not themselves party to trade, even if they shared the same nationality as trade dependents. In other words, in the world of protectionist states, a prospective raising of trade barriers could not be ruled out, morally speaking, merely because it would disadvantage non-trading foreigners—*even if they would end up worse off than if our society was, and had always been, closed to trade*. After all, disadvantaging someone—even leaving them worse off than if you did not exist—is not normally thought wrong in the absence of the right sort of tie. Were a new and superior diner to open up in Ithaca, and drive the State Diner out of business, it is clear that the owner (and perhaps employees) of State Diner would be better off if that new diner had opened in Cortland instead. But in the absence of some tie between the new diner and State Diner—perhaps one of usage that could be deemed coercive or exploitative—few would see anything objectionable about that.

In the world of bargaining states, in contrast, there is a constraint on adjusting trade policy that encompasses the interests of members of foreign societies who are not direct trade participants themselves. This constraint is not grounded on the treaty relationship in one sense, being rather a reincarnation of the duty not to harm. Yet a trade-treaty relationship of

dependence entails a vulnerability to be wronged that would not otherwise exist. To illustrate this constraint, consider the following scenario. Say that developed-country A has a treaty with country B that extends preferential market access to B. B is primarily a banana-producing economy, and the treaty specifies that bananas from B are only subject to *half* the normal tariff. Now imagine that the treaty is coming up for renewal, and A is considering cancelling it. Or imagine that A is thinking of signing a secondary deal with C that would entail C's bananas being subject to only a *third* of the normal tariff. Although A would not be violating its *treaty commitment* by making either move, might one or the other nevertheless be wrong?¹⁵

On the argument I seek to advance, A does wrong if it *leaves B regretting that it was ever party to a trade agreement with A*—according to its democratic determination—even if it does not leave trade-dependent *members* of B worse off than if A was, and had always been, closed to trade. Indeed, A does wrong on these terms even if B is better off as a whole than if A was, and had always been, closed to *trade* (just not as well off as B would have been if there was no potential for diplomatic contact with A, as in the world of protectionist states).

But how might B be vulnerable to being disadvantaged to this extent? Say that, had B never signed a treaty with A, its economy would have been much more diverse, in the sense that the degree of national specialisation would have been limited. Further suppose that, had it been more diverse—diverse enough such that it would not have relied only on cash crops—its economy would have experienced greater growth gains via technological development in capital-intensive sectors. In a case like this, B may be extremely vulnerable to being harmed. Indeed, if B already regrets having specialised in a cash crop—but is unable to easily shift to a different pattern of national specialisation given the strictures of path dependence—*any* disadvantaging of

¹⁵ As noted previously, the WTO's most-favoured-nation clause effectively combats concession erosion—particularly why multilateralised.

B caused by a failure of A to renew a trade treaty will constitute a wrong, at least to the extent that B was not already on the path to a cash-crop specialisation at the time when the treaty was signed. Or imagine that, had B never agreed to this deal, it would have opted for a trade agreement with country C, who proffered market access for coffee. Further suppose that, had it originally specialised in coffee, it would now be a highly efficient coffee producer—so efficient that, were it induced to shift to a coffee specialisation latterly by A's failure to renew a treaty, it could not be efficient enough not to leave it regretting the lost opportunity to have developed a national expertise in coffee from the beginning.

Notice that as the duty in both these cases is owed to B as a collective, A must take into consideration the interests of non-trading members of society B in addition to those of direct trade dependents. But this does not mean, of course, that it is up to members of A to determine—by weighing the private interests of various members of society B in the way that it sees fit—what is to count as a harming of B. At least when B is a minimally democratic society, what is to count as harmful should be assessed relative to the national priorities that members of B have determined for themselves. In theory at least, it might be the case that trade dependent members of B do not regret—on the basis of their private preferences at least—that their country was ever party to a treaty with A, while it is nevertheless that case that B is harmed. Imagine that, if A failed to renew its treaty with B, farmers in B could shift from banana- to coffee-production for sufficiently low cost. It might nevertheless be the case that B is harmed because, for example, B has determined that bananas proffer greater developmental gains over time, or banana-production has a cultural significance for that national community that coffee-production does not.

Now, it might be thought that when two countries sign a trade agreement, there is always some assumed risk that when the treaty comes to an end it will not be renewed. And if that treaty does not entail something like a most-favoured-nation clause (which we have put off considering until the next chapter) there is an assumed risk that the relevant concessions will not turn out to be as beneficial as initially thought as they are eroded via undercutting agreements with third-parties. But the argument I sought to advance here is merely analogous to the argument I made with respect to dependent foreigners in the previous chapter. If there are duties to individuals tied to my society in trade—not to exploit, net-harm, or exploitative disadvantage—there *must* be analogous duties to societies tied to mine via treaty, given the relevantly similar structure of trade and treaty.

And it would seem that the responses I offered in Chapter 3 to the objection that individual actors ought to bear their own risks is equally applicable here. Most importantly, there is the following consideration: even if we think that, normally speaking, actors ought to bear the risks to which they voluntarily commit, we might not think that “normal” circumstances ought to cover cases where actors face *unfair inequalities in pressures to take risks*. Picture two countries in the world of bargaining states that are equivalently endowed in terms of their natural resources, have similar national cultures, and are almost identical in political and legal terms. Now imagine that one is better off than the other. Perhaps this is because one society has been beset by a natural disaster, or must suffer the legacy of decisions made by previous generations under a prior regime that was undemocratic. Or, indeed, perhaps both countries have had very similar historical trajectories, with their governments assuming almost identical risks; it just so happens that one country struck the lucky side of these risks while the other did not. Now, further suppose that these countries are in a trade agreement with one another, and that the more

fortunate country is considering failing to renew the treaty—or to sign a secondary agreement that would undermine the gains to the less fortunate party. Now it seems to me that the fact that that poor country faced greater pressure to enter such an agreement constrains what the more fortunate society might do, even if it was never under an obligation to neutralise that unfair inequality in the absence of the treaty tie.

VI. Treaties that Incentivise Wrongdoing

Thus far in this chapter I have shown how the tie of treaty expands the scope of distributive concern to include all citizens of treaty partners, not merely direct participants in cross-border exchange. As a citizen of a democratic society tied to others via treaty, I have duties beyond those to persons with whom I am directly tied via trade, and to persons with whom my compatriots are so tied. As the treaty concessions that other states might make for the common good of myself and my compatriots shape the prospects of *everyone* living in that state, I have duties to non-trade-participants in that state too. These are not duties to weigh their interests equally in every way (much of their political order still generates and distributes benefits between them only) but they are significant.

However, this does not exhaust the extent to which being party to a trade agreement expands the scope of distributive concern. When my government signs a treaty with another country that entails concessions in terms of their *trade policy* (remember that, in our own world, concessions in some other domain might be sought instead) we must be satisfied that these concessions not entail violation of the moral constraints on commercial-policy choice outlined in Chapter 3. To this extent at least, societies in the a world of bargaining states must consider the

interests of (some) individuals who are members of *third-party societies*, even if these individuals are not bound to my society via trade, but rather to the society of my treaty partner.

In section II above, I argued that no state may offer a concession to another state in trade-deal negotiations that would entail violations of the moral constraints on commercial-policy choice outlined in the last chapter—obligations that are owed, the reader will remember, to individuals abroad who are *dependent* on their trade ties to my society. Picture, then, the partially non-ideal circumstances in which one's *treaty partner* cannot be relied upon to fulfil the very same obligations. It would be wrong, in such circumstances, to be party to an agreement that would require an adjustment in one's treaty partner's trade policy that would net-harm, for example, individuals dependent on *that* society.

This doesn't seem to me to be sufficiently controversial to need much of a defence. It would be outrageous to suggest that, in the everyday circumstances of interpersonal relations, incentivising wrongdoing by others—in circumstances where those others would otherwise have avoided wrongdoing—is not in itself wrong. Say that my employees are often late for work, or not as early as they could be, because they are frequently forced to stop at a school crossing. It would be appalling for me to offer them a raise if they promised to ignore the crossing guard's instructions and speed dangerously past when they would otherwise stop. And it would be idle of me to object that my employees need not have accepted my offer, so only they ought to bear responsibility for the unacceptable risks borne by the children.

Chapter 5 – A World of Coordinated Bargaining

Just as private exchange grounds a duty incumbent on the individual to equitably distribute the gains of trade, bilateral trade agreements ground a duty incumbent on states to equitably distribute the gains of treaty across signatory-societies. When this duty is not fulfilled, a treaty is exploitative even if it is voluntary and mutually beneficial. Furthermore, when a state is considering failing to renew a bilateral treaty, or negotiating a secondary trade deal that would reduce the gains accruing to its treaty partner under the first treaty, it must be sure not to net-harm or exploitatively disadvantage its erstwhile treaty partner overall. Finally, bilateral trade agreements ground an obligation to ensure that the terms of each and every agreement not induce one's treaty partner to adopt a trade policy that would violate the moral constraints on commercial-policy choice outlined in Chapter 3. For example, if adherence to a trade agreement necessarily entails a treaty partner adopting a commercial policy entailing exploitation of persons who are trade-dependent on *that* society, one is partially responsible despite no direct tie to those wronged. These are the moral constraints generated by diplomatic intercourse on a *bilateral* basis, or so I argued in the previous chapter.

Nevertheless, we do not yet have sufficient analytic resources to enable us to interrogate, in moral terms, our own trade-integrated world. This is because, needless to say, there are no barriers to *multilateral* trade agreements in our own world. Indeed, in taking advantage of this fact, states in our own world have formed an organisation of near global scope to coordinate treaty-bargaining across all of its member-states simultaneously—the WTO. There are also a number of preferential trading blocs, most notably the European Union. We have cause to consider, therefore, a final hypothetical world: a world of coordinated bargaining. It is in reflecting on this world—and testing our intuitions regarding acts and omissions in this world

against our intuitions about analogous acts and omissions in the everyday circumstances to which we are better attuned—that we will arrive at the final set of moral considerations of relevance to our own world.

Yet the reader may wonder what reason we have to think that deals involving more than two states might ground additional moral demands beyond those that are grounded by bilateral deals. If we wish to speak to a world of states in which such treaties are a reality, surely all we need to do is rearticulate the principles derived in the previous chapter to suit these circumstances? So, if a treaty includes more than two parties, fairness requires an equitable division of the gains of treaty across *all* parties to that treaty, not merely any two. And if a group of states is considering signing a trade agreement that would undermine the gains accruing to existing treaty partners—picture a subset of multilateral treaty members entering into a preferential trade agreement to the exclusion of others, as when the European Economic Community was formed from a subset of contracting parties to GATT—they must be sure not to net-harm or exploitatively disadvantage *any* of those prior treaty partners. And, if a society is a member of a multilateral treaty, it has reason to be concerned if that agreement's terms induce *any* of its treaty partners to violate the constraints on commercial policy choice discussed in Chapter 3.

It is certainly true that merely applying the moral demands derived in previous chapter to a multilateral context goes a long to explain why, in our own world, the advent of the WTO has expanded the scope of distributive concern. Indeed, it is important that the reader note the following: once these rearticulated obligations are taken together, it is no longer the case that any foreign individual's or society's interests drop out when a state is determining its external economic policy. The reader will recall that in Chapter 3 I argued that even if a society

possesses the power to alter the world price of a good via its trade-policy choice, it need only be concerned if it exploits, net-harms, or exploitatively disadvantages those particular foreigners with whom *it* is directed tied via trade. At least in the absence of a global treaty, resulting exploitation, net-harming, or exploitative disadvantaging of *other* foreigners is properly the responsibility only of those states that wrongly utilise the bargaining leverage extended to them by that trade-policy choice.

Analogously, I made the argument in Chapter 4 that, when concluding a trade treaty, a state need only be concerned not to exploit *its* treaty partner. It need not, in contrast, be concerned if, by concluding a treaty on those terms, it depresses the terms of treaties amongst *third-party states*. For this represents, again, a wrong on the part of those third-party states who need not have taken advantage of the increase in their bargaining power attendant on that treaty.¹ But notice that, given a trade agreement to which *all* states are party (as agreements embodied by the WTO nearly represent), it is no longer the case that a state need only consider *certain* trade-dependent individual's interests in determining its external economic policy. Given the duty not to induce a treaty partner to violate *its* obligations, discussed in the final section of the previous chapter, a society acquires, via its membership of a globally-comprehensive treaty, reasons to be concerned about the impact of that treaty as a whole.

Yet there *is* something structurally distinct about a world in which coordinated bargaining is a possibility, at least as I specify such a world here. The reader will remember that, when I

¹ It may be that states have *some* license to use the bargaining advantage extended to them as a consequence of the treaty activities of others. Say that a security competitor gets an equitable trade deal that is very favourable to it, in circumstances where if my state was to conclude a trade deal on equitable terms with some other party, my state would be at a competitive disadvantage. Further suppose that because my state's competitor has already concluded a deal, other societies are more eager to sign a treaty than would otherwise be the case. In circumstances like this it may be permissible to sign a trade deal that proffers fewer advantages to one's treaty partner. Indeed, such a deal is not exploitative as long as security is considered one of the gains of treaty to be equitably divided (see Gilpin, 2001, pp. 78–80). This is analogous to the argument that firms can pay their workers less in the non-ideal circumstances where rival firms cannot be relied upon not to exploit *their* workers.

specified the dimensions of the world of bargaining states, I indicated that the reader should consider the state of social-scientific knowledge in that world insufficiently advanced to admit treaty provisions that would prevent new deals from undercutting existing agreements. But, as I outline further in the next section of this chapter below, this implausible assumption is now relaxed. In picturing the world of coordinated bargaining, therefore, the reader is not merely to imagine circumstances in which *multiple* states might arrive at trade agreements analogous to those that were restricted to two parties in the previous chapter. Rather, the reader should envisage a world in which those trade agreements arrived at might additionally restrict what *further* trade treaties parties to that agreement might negotiate, at least as long as the agreement is in effect. Indeed, the reader should not only picture formal treaties entailing such restrictions, but informal agreements with the same effect (picture a coalition of states forming a united front purely for the purposes of bargaining within the WTO). This is why the hypothetical world the reader should imagine for the purposes of this chapter is called the world of *coordinated* bargaining, rather than the world multilateral bargaining. We are not merely concerned with treaties arrived at involving more than two parties, but that societies might unite for strategic purposes, including informally.

For a multilateral trade agreement to be restrictive in this sense, it must either (i) restrict future deals amongst any subset of signatories that might disadvantage other signatories (as per WTO regulations on preferential trade blocs) and/or (ii) restrict future deals between any one signatory and a non-signatory that would reduce the gains of that agreement accruing to current signatories (picture a single member of the European Union signing a trade deal with a non-member entailing a reduction in agricultural protection, thereby undermining the EU's common agricultural policy). The WTO's most-favoured-nation principle is restrictive in both these

senses. By requiring that market access extended to one foreign society—whether another member of the WTO or a non-member—be extended to all members, the MFN provision disincentivises secondary agreements (either with other members or outsiders), at least as long as unilateral liberalisation is taken as a cost.

The remainder of this chapter is, then, structured as follows. After outlining the world with coordinated bargaining, I discuss the merits of the MFN principle. As previously noted, this principle has obvious fairness appeal. Besides ensuring that countries that supply very similar goods are not subject to very different tariffs (although this can, in fact, be in the importing country's economic interest), this principle mitigates against concession erosion. In section II, I move on to a discussion of the WTO in light of the claims I made in the previous chapter about using one's trade policy strategically. I raise the possibility that the WTO—or indeed other coordinated deals that share relevant features with the WTO—may not merely be inequitably distributing treaty gains, but blackmailing weaker members in bargaining rounds and accession negotiations. In section III I discuss what would be necessary in order that the WTO—or more advantaged members of that club—not exploit existing members in trade negotiations or prospective members in accession negotiations. Then, in section IV, I return to the “coercive claim”. I argue that it may be the case that richer members of the WTO owe poorer members more than merely an equal net-share of treaty gains, which they would be owed on the basis of *cooperation* alone. Finally, I reflect on a few common criticisms of the WTO. While my project aims to derive a fair trade ideal, not to contrast our own world with this ideal, it might be useful to offer a few tentative thoughts on such a contrast. I largely put to one side, for present purposes, beneficence and the constraints on commercial-policy choice outlined in Chapter 3. These duties would still apply in a world with coordinated bargaining, of course, but the reader

can relatively easily determine *how* they would apply by extrapolating from sections I and II of the previous chapter.

Before moving on, it may be helpful to contrast the approach I have taken in this chapter with other approaches by political philosophers to similar matters. The following chapter is concerned with coordinative trade treaties (treaties that include provisions restricting what further agreements are likely to be arrived at) in the whole, not merely with the WTO. The fact that I often use the WTO to illustrate the claims that I am making, and reflect on what the implications might be for the WTO of the arguments that I advance, needs no explanation. Nevertheless, in contrast to those few political theorists who have concentrated on the trade regime in their writings, I am not *merely* concerned with the WTO. I seek a standard that could guide negotiators in plurilateral or other multilateral settings too.

More importantly, perhaps, I seek to break down what coordinative deals imply in *relational* terms. This is in contrast to most existing accounts. To date, philosophers who have argued that the WTO grounds some sort of distributive requirement that would not otherwise pertain have argued that, quite apart from the fact that the WTO is a *cooperative* venture, and one that might be characterised as *coercively* enforcing its rules, it is *inescapable*. In other words, the costs of not being a member of the WTO are too great for us to assess the WTO as if it were merely a voluntary club. As such we should look at the WTO as we do the state—in relation to which, of course, many people believe that there are grounds for distributive concern. For example, Pietro Maffettone writes that:

Members in the WTO system are normally seen as participants in a voluntary scheme of trade relations. I think, however, that this is a partially misleading reconstruction of reality... The bottom line is that the contemporary WTO system is almost *inescapable* with 151 members (including all large markets) out of 192

trading nations... If an organization (or a regime) enjoys the quasi-monopoly in its sector, non-membership ceases to be a practicable option.²

But from the perspective of this project, this argument proceeds too quickly. First and foremost, the *de facto* global order (or “arrangement”, if “order” is to be restrictively defined) is inescapable *regards of what it looks like*. Indeed, just so long as there are no other planets or alternative universes into which individuals or societies unhappy with our own world can costlessly jump, the global arrangement is *literally* inescapable, rather than merely being *costly* to escape (as in the case of the state and the WTO). If avoidability were all that mattered, in other words, relations would be irrelevant, and people would be entitled to the same holdings regardless of what cooperative relationships they chose or happened to find themselves in. For the set of effective options and their value that each and every individual would be faced with *even in the world of autarkies* is equally as inescapable as the set of effective options and their value that each and every individual might face in a world with coordinated bargaining.³

Darrel Moellendorf has (unsurprisingly, given his cosmopolitan perspective) implied this criticism in discussing the WTO. Moellendorf notes that:

...although state leaders are formally free either to deepen engagement with the *world market* or not to do so [emphasis added], if they have no reasonable alternative path to development—as appears to be the case—then the moral significance of this area of choice is slight. Moreover, in many cases citizens of countries that choose such a development path effectively have no choice in the matter. The burdens of unequal life prospects and the constraints on domestic

² Maffettone (2009, pp. 253–254). See also Cohen and Sabel (2006, p. 168), Sangiovanni (2007, pp. 18–19) and Loriaux (2012, p. 28). Note that it might be thought that it is the *inescapability* of a society’s basic structure that grounds egalitarian distributive requirements within the state, rather than some other feature of the domestic order (Rawls, 1999, pp. 6–10; Pogge, 1989, p. 247).

³ This objection could be levelled at Laura Valentini (2011, pp. 212–214), who defines “systemic coercion” in such a way as to rule no one’s set of options as even partially non-coerced. Valentini writes that “a system of rules is coercive if it foreseeably and avoidable places nontrivial constraints on some agent’s freedom” where those rules do not need to be authored or enforced by a “group agent”, and the baseline for determining whether anyone is constrained (rather than enabled) is, seemingly, how well off they would be under a feasible alternative set of rules.

policy of the global market are not, therefore, in a morally relevant sense voluntarily assumed.⁴

In other words, even if the WTO didn't exist, and there was merely a global market formed by cross-border exchange—as in the world of liberal trading societies—there would be grounds to think, from this perspective at least, that distributive duties across borders ought to be equally demanding. But from the perspective that I have adopted in this dissertation, it is not *only* what set of options each and every person and society is faced with that matters, but also what relationships shaped these options, what kind of relationships these were, and whether any of these options might themselves lead to new relationships being formed.

It is also worth noting that even if it is true that egalitarian distributive obligations of some kind are owed between fellow members of some cooperative club just in case the cost of exiting that club is sufficiently great, this tells us nothing about what might be owed to *outsiders*. To the extent that I argue that outsiders ought not to be harmed via blackmail (imagine non-WTO-members being denied trade-policy concessions merely to pressure them to enter the WTO), I have something to say where alternative accounts must remain silent.

A World of Coordinated Bargaining

The hypothetical world that the reader should envisage when reflecting on the normative claims that I make in this chapter is closely akin to the world of bargaining states. States in the world of coordinated bargaining are aware of what might be gained via international treaty, and possess the institutional capacity to maintain on-going channels of diplomatic communication with one another, as well as to attempt to enforce whatever commitments they have made. Nevertheless, the world of coordinated bargaining is closer to our own than the world of bargaining states in

⁴ Moellendorf (2005, p. 149).

the following respect: states realise what might be gained via coordinated, as opposed to bilateral, deals. For the purposes of this chapter, coordinated deals are defined as treaties that both involve more than two parties and entail restrictions on what secondary agreements parties might be signatory to.

A coordinated agreement is taken to be more attractive than a bilateral deal—or even a series of bilateral deals that, in cumulative effect, would entail identical policy commitments on the part of one's treaty partners—because the gains it proffers are more secure. First, the more parties are included in any particular deal, the lesser the likelihood that a potential for mutually beneficial agreement between any two will go unrealised. Say that A signs a treaty with B under which B is granted preferential market access to A. However, A subsequently realises it can improve its position by granting an even more generous deal to B's competitor C. If A were to sign such a treaty with C, B's interests would obviously be set-back. Indeed, B might be left regretting signing its treaty with A if the impact of its treaty commitment on the structure of its economy left it overly reliant on continued trade with A. Obviously, had C been included in treaty negotiations from the outset—thereby presenting A and C with an earlier opportunity to realise what they might gain from one another—B might have been saved some trouble.

Of course, as economic and political circumstances change, new opportunities for secondary deals might emerge, even if the universe of such opportunities were exploited initially. The second advantage of coordinated deals—in terms of better securing the prospective gains of treaty—is, however, that they might include limits on what further trade deals signatories to that treaty might negotiate. As discussed in the introduction to this chapter above, these limits might apply to further agreements among some subset of treaty members and/or to secondary deals involving outside states. And they might take the form of either explicit prohibitions or merely

provisions that serve to dis-incentivise such deals. From a certain perspective—although not the (neoliberal) viewpoint from which any non-zero trade barrier is irrational, regardless of the policies of others—the WTO’s most-favoured-nation principle is a provision of the latter kind. Although no member of the WTO is prohibited from unilaterally extending market access to another society as part of some special deal, by requiring that any such offer also be extended to all other WTO members—as well as requiring the same via a reciprocal concession, at least as long as the other party to that deal is also a member of the WTO—the MFN serves to render such deals less attractive. After all, why grant a whole set of countries besides one’s bargaining partner market access without getting anything in return?

In reality, of course, there is no reason why a bilateral trade agreement might not be restrictive in the sense discussed above (i.e. there is no reason why a bilateral deal *cannot* include an MFN clause, even if neither party would find this attractive). However, for the purposes of expository parsimony, the reader will recall that the potential that treaties might take this form was ruled out when specifying the world of bargaining states. That this unrealistic assumption is now relaxed is one reason why the hypothetical world upon which the reader should now reflect is properly termed the world of coordinated bargaining, rather than, say, the world of multilateral bargaining. We are not merely concerned with how the gains of treaty are to be divided amongst a plurality of parties; we also wish to ascertain the moral implications of what might be thought of as collusion between states in the “market” for trade agreements.

The third reason why the prospective gains of a coordinated deal are likely to entail a lesser risk—than, say, a set of bilateral agreements entailing identical commitments on the part of each of one’s treaty partners—is that coordinated deals typically marshal a greater enforcement capacity. If a state fails to uphold its side of a bilateral bargain, the worst it can

expect is reciprocal defection on the part of its treaty partner—plus, perhaps, some diminishment of its international reputation as a reliable treaty partner in general. In contrast, if a state fails to live up to its commitment under a multilateral treaty, it might suffer retaliatory action by *all* members of that agreement. The utility of coordinating a collective punishment strategy for the failure of any single party to live up to their commitments is, of course, one of Hobbes’s most important contributions to political philosophy.⁵ The idea is powerfully illustrated in the famous frontispiece from the 1651 edition of *Leviathan*, in which the body of the figure representing the sovereign—whose purpose is to keep the people “in awe”—is literally composed of all the individual parties to the social contract.

Finally, the gains of a coordinated deal are more secure than the gains of a set of bilateral deals—even a set entailing identical policy commitments—to the extent that the former takes on, in the minds of its parties at least, a normative authority that the latter lacks. When the parties to a treaty specify precisely what would constitute a sanctionable failure to fulfil a commitment, stipulate a procedure for determining if a putative failure is indeed illegal, and authorise a punishment for that failure, they are certainly *assuming* a certain normative authority—namely an authority to prescribe international law. But besides this there are reasons why the parties to such an agreement—one involving multiple parties and specifying legal wrongs and attendant punishments—might consider failing to fulfil a treaty commitment a greater wrong than they otherwise would. Say that a society felt no duty to uphold its commitment under a treaty merely on promissory grounds—and would, as a consequence, only be inclined to abide by its commitment to the extent that it could be deterred by threatened penalties. It might nevertheless be the case that such a society would feel some moral reason to abide by its commitments if the coordinated treaty it was party to was of the form identified above. First, when a state is party to

⁵ Rawls (2007, p. 80).

a treaty that not only specifies treaty commitments, but failures to fulfil commitments and attendant punishments, that state is *part-author* of any penalties it would incur if it defected from the agreement. It would be unsurprising, then, if such a state interpreted these penalties as more than merely costs, or, at least, assigned them additional weight on normative grounds. For a failure to consider penalties in this way when considering defection either reflects inconsistency or unfairness (why should these penalties have been considered justified when specified in the original treaty, and/or where other parties are involved, but not now?). Second, there is sheer weight of opinion. Although there is nothing preventing a bilateral treaty from clearly identifying what would constitute a failure to fulfil a commitment, and specifying an attendant punishment, the fact is that a multilateral treaty takes into consideration the views of number of outside parties. How could it not be the case, for instance, that a state defecting from a WTO commitment not assign the penalty it must face some normative weight, when the procedure giving rise to the penalty was signed off on by near every country's government?

It is also important to point out that while, in characterising the world of coordinated bargaining above, I have spoken of coordinated *treaties*, *deals*, or *arrangements*, I do not mean to imply that the choice states face in this world is necessarily between political autarky, on the one hand, and cementing their trade-policy commitments to one another formally, on the other. Their choice is not restricted, in other words, to *either* determining their trade-policy in political isolation *or* signing-off on trade-policy commitments in writing. Indeed, because the world of coordinated bargaining admits formal agreements of this kind—on account of the more advanced state of social-scientific knowledge and diplomatic capacity, when compared to the world of bargaining states—the reader should take it that this world necessarily admits the possibility of *informal* deals between states. This is a particularly important point to bear in

mind because, in the pages to follow, I am also concerned with the moral implications of coordinative arrangements that are not formalised, in particular bargaining coalitions. Consider, for example, groups of states with similar interests that ally themselves in WTO negotiations in the quest for better treaty terms. Sometimes, of course, groups of states that have a formal trade agreement amongst themselves also constitute a bargaining coalition with respect to outsiders. The countries of the European Union might be thought to constitute such a bloc in WTO negotiations, and, of course, the WTO itself constitutes a bargaining coalition with respect to prospective members.

I. The Most-Favoured-Nation Principle

There are a number of *strategic* reasons why the original parties to GATT might have adopted the MFN provision. Most significantly, and as I have previously noted, if a state includes an MFN clause in an agreement with another state, it is guaranteeing them that the concession that it is making will not be eroded if it signs a secondary deal. As such, utilising an MFN principle enables states to conclude trade agreements that would otherwise require a great deal of trust. (It is worth noting that if MFNs proliferate in a bilateral bargaining world, there will be pressure to multilateralise negotiations, as every time a new deal is signed bilaterally, those countries already with MFN status get something for nothing).⁶ There are other strategic benefits too: the MFN provision makes negotiations much simpler; maximises liberalisation whatever the terms that are agreed upon; lessens bureaucratic costs for customs agencies; and increases the cost of raising trade barriers (as it is not possible to do this *selectively* across countries), thereby locking in liberalisation “gains” by dis-incentivising any one country from sparking a tit-for-tat trade-war.

⁶ Ethier (2004).

But the MFN principle also has value from the perspective of *fairness*.⁷ Indeed, to the extent that establishing GATT relied upon good will between the founding parties, the MFN principle's fairness value was also of strategic worth. The most-favoured-nation principle states that no country may discriminate amongst trade partners in terms of the trade barriers that it does have in place with respect to *relevantly similar goods*. If the US had tariffs of 0.5% on bananas from Belize but 50% on plantains from Costa Rica, this would fall foul of the MFN provision of GATT. Now, treating similar goods similarly, even if treating them differently would be to an actor's economic advantage—external preferences to one side—has obvious ethical appeal. Consider again the example I raised in Chapter 2 of an employer considering what to pay his or her female employees as compared to his or her male employees—output and revenue being equal. Surely it would be wrong for that employer to pay women less than men for the same work even though this would, clearly, be in the employer's economic interest. Indeed, perhaps it would be wrong for that employer to pay women less than men even if its revenue would fall as a result (say that if it did not pay inequitably the business would be boycotted by sexist customers)?⁸ Then surely it would be equally wrong for America to exploit its greater market power (let us say) with respect to Costa Rica as compared to Belize to extract a greater gain from the former than the latter.

The MFN principle has fairness appeal in another way too. The reader will recall that in the final section of the previous chapter I argued that it is wrong for a state to induce another state to violate its obligations to dependent foreigners via signing a treaty with that other state. Picture a case in which, by signing a preferential trade agreement with another society, foreigners dependent on that society are wrongfully disadvantaged by being undercut. But in

⁷ Brown and Stern (2012).

⁸ Blake (2006).

world in which states are densely tied by treaty—even only bilateral treaties—there would, presumably, be another obligation of a similar kind. Picture circumstances in which a prospective treaty partner already has treaty ties, and obligations, to *third-party societies*: in circumstances like this, it might be very hard to find treaty terms that would not lead that prospective partner to violate its pre-existing duties. One way to get around this, however, is to ask your prospective partner to extend any (otherwise preferential) concessions that it extends to you to its pre-existing treaty partners. In this way it is possible to sign a treaty with another country without implicating oneself in the wrongful disadvantaging of other societies. In other words, even if a society did not have an obligation to extend MFN status to *others* (just so long as it did not engage in concession erosion later) it might face an obligation to refrain from signing a bilateral treaty with a society that did not itself extend that status to others.

However, depending on the context and the particular interpretation of what the MFN principle implies, it can be a barrier to achieving equity all-things-considered. Firstly, and most importantly, the MFN provision does allow discrimination on the basis of the *type of good being traded*. So it is permissible, for instance, for rich countries in the WTO to effectively discriminate against poor countries by having higher tariffs and other trade barriers on the goods that they happen to have a comparative advantage in as compared to the goods that wealthy countries happen to have a comparative advantage in. The most obvious example of this is the relatively high levels of protection on agriculture and textiles as compared to industrial goods and services that the WTO permits. Picture again our employee deciding what he or she will pay his or her female as opposed to male employees, output and revenue being equal. Now suppose that the males and females are going to work in different teams doing functionally differentiated tasks (this might be objectionable on other grounds, but put this to one side for a moment).

Further suppose that there is absolutely no difference in the talents, skills, and drive of any two people in this workplace, all of whom contribute equally to the business's success. Wouldn't it be objectionable for the women to get paid less than the men *even if they work at different tasks and produce different (intermediate) goods?*

In general, in other words, the MFN principle, as interpreted by the WTO at least, is consistent with exploitation in trade and treaty. Consider a case where a lower tariff would be required on one import rather than another, because if an equal tariff were applied then some producers would be exploited. Imagine, for example, that the banana-producers of Belize are absolutely needy, while the banana-producers of Costa Rica are not. And were America to level the same tariff on bananas from Belize as it does bananas from Costa Rica, then Belizean producers would receive a lesser share of the gains of exchange than would enable them to minimise their poverty. Then "discriminating" would not be objectionable. Indeed, it would be necessary. Or consider exploitation in treaty (regarding which I will have more to say below). Say that the asymmetry in permissible protection under the WTO according to the type of good being produced resulted in an inequitable division of treaty gains across countries (as is eminently plausible). Then the MFN provision (as currently interpreted) is again a barrier to fairness. But rather than being too restrictive, it is not restrictive enough. Rich countries ought not to be able to level high tariffs on goods in which Southern countries have a comparative advantage. After all, discrimination in the sense of treating cases that ought to be considered different differently in the right way is not wrongful, but obligatory.

II. The Single Undertaking and Blackmail

One criticism that has been made of the WTO is that, in contrast to GATT, it is insufficiently flexible. Each and every member state must sign on to each and every element of each and every agreement. Now, at first glance, it is difficult to understand why this would be a problem, at least as long as the WTO ensures that the gains of membership are equitably distributed across countries (again, discussed further below). Consider the domestic analogy. Each and every American is subject to each and every American law across each and every domain of government competence. Surely the question is not whether the American politico-legal order is insufficiently flexible, but whether that order is *just*. Indeed, were individual citizens to be able to pick and choose which laws to abide by, and horse-trade with their compatriots over these laws, I think most people would be shocked. In the light of this analogy, it may be tempting to think that what critics of the WTO are really objecting to is not the flexibility of the system *per se*, but the way the system distributes gains. In other words, no one would be too worried about how flexible the WTO system is, were it not for the fact that developing countries seem to be getting such a raw deal.

Yet there is another way of interpreting this objection altogether. It may be that the argument is actually that the WTO, or significant players within the WTO, is *blackmailing* weaker states. In this light, the problem of inflexibility is a particular kind of procedural wrong. Indeed, if it is a wrong of this kind, the WTO is not merely inequitably distributing treaty gains, but wrongfully disadvantaging poorer countries, or submitting them to wrongful threats to be disadvantaged. This objection might be levelled at the WTO in its dealings with non-members, whether in order to achieve a better deal for existing members in accession negotiations or in

order to pressure outside states into seeking admission. Or it might be levelled at coalitions within the WTO with respect to weaker members considered individually.

Now, it might be useful to start off by noting what this interpretation of the flexibility objection *isn't*. It isn't merely the claim that developing countries have been wronged because they would be better off now if the WTO had never been formed and multilateral treaty negotiations had continued in the flexible mode of GATT. Interestingly, and despite the widespread belief that the advent of the WTO has benefited its members (even if inequitably) there is some evidence for this claim. For instance, economists Kamal Saggi and Faruk Sengul have shown—by modelling the WTO game-theoretically—how the formation of a most-favoured-nation club can leave some countries worse off than if no such club existed, including *members* of that club (for whom exit isn't even an option as this would leave them worse off *still*).⁹ Indeed, it would be tempting to say—following along these lines—that no country should be *worst off in a bargaining world than they would have been in the world of protectionist states* (in which there was no potential for diplomatic contact between governments). The idea that a group of states ought not to “gang up” or “conspire” together in such a way as to leave others worse off has obvious fairness appeal, and probably lay behind Rawls's brief comments on fair trade in *The Law of Peoples*.

But it is important to note that merely because some actor is worse off in a world in which others *cooperate* with one another in some way—relative to how well off they would have been in the absence of that cooperation (or if some party or parties to cooperation did not exist)—is not sufficient to establish that they have been wronged. Consider again the example in which a new diner opens up in Ithaca and drives State Diner out of business. State Diner is not wronged merely because the majority of diner customers decide to frequent the new diner

⁹ Saggi and Sengul (2009). See also Hoekman and Kostecki (2009), Saggi and Yildiz (2005).

instead, rather than, say, dividing their custom equally between the two businesses. State Diner certainly would be better off in a world in which the other diner did not exist, or in which customers did divide their custom equally between the two businesses, but this doesn't seem relevant. Or consider again the issue of protectionism. It doesn't seem that merely because a foreigner is worse off than they would be if their target market did not possess the institutional capacity to prohibit imports is sufficient to establish that they have been wronged. As long as such a prohibition can be justified to *citizens*—say all actually consent to be bound by such a prohibition as it is in the interests of economic development, with legal penalties serving assurance purposes only—it wouldn't appear that that foreigner is wronged. Or consider a case in which residents of a small town cooperate together by voluntarily “buying local” so as to protect local businesses and the urban dynamic they generate. Walmart might be worse off relative to a world in which locals did not cooperate in this way, but this is not sufficient to establish that Walmart has been wronged.

More instructively, perhaps, consider again the case I offered in the previous chapter in which I live next door to someone with a very beautiful garden. Now, I claimed there that it would be wrong for my neighbour to threaten to plant a tree that would obstruct my view (something that would otherwise be within his rights) in order to extract some benefit from me, even if I would still be better off submitting to my neighbour's blackmail than if he left the neighbourhood altogether and his garden thereby deteriorated. Suppose, however, that my neighbour decides he is going to convert his beautiful garden into a plot for growing Christmas trees to sell. Obviously, I would prefer he blackmail me than that this happen; and I would be better off in a world in which there were no customers for Christmas trees for my neighbour to

cater to. Nevertheless the potential for my neighbour and these customers to arrive at mutual beneficial deals (an analogy to an international treaty) does not give me a claim against them.

Nevertheless, it is also clear that sometimes acting in a way that would otherwise be within one's rights is wrong—in particular when one acts to extract some benefit from another party. Besides coercion, it is difficult to think of a way of behaving that better approaches *mere usage* than this. Say that the governments of developing countries within the WTO were paralysed, or were so weak that it was beyond their means to make trade-barrier concessions, even should they wish to. This is obviously not the case, but supposing it is so is necessary in order to establish the baseline that would enable us to determine if more powerful members of the WTO are responsible for blackmailing weaker states or not. Now, suppose that if poor-country governments *were* paralysed in this way, when it came time for the next round of WTO negotiations, they would be offered some degree of market access by wealthier countries *anyway*. Although these countries would not be in a position to offer any reciprocal concession or concessions, this would not impact what more wealthy countries would do (to some degree at least). Then if, in reality, powerful members of the WTO threaten not to liberalise their markets unless developing countries do so too, then what is occurring is blackmail.

This is analogous to the following scenario involving my gardening neighbour. Say that I am, in fact, indifferent between whether my neighbour maintains his garden the way it is or instead grows Christmas trees to sell. It is just nice to have a view over his property. Now suppose that my neighbour knows that, come Christmas time, I will need a Christmas tree as much as the next person. And he threatens to build a fence obscuring my view of his property unless I purchase a Christmas tree from him. Indeed, suppose he goes further and says that I must buy a Christmas tree from him for a price several times market value. Now it seems to me

that my neighbour is wrongfully using me here, even if I am better off being blackmailed in this way—and retaining my view—than I would if he left the neighbourhood and his garden was replaced by a block of flats. This is because the relevant baseline is one in which he is not in a position to put this proposition to me. Say that my home was in fact a minimum security prison, and I was prevented from buying anything except in the prison store. Then my neighbour would not be in a position to threaten to build a fence around his property unless I bought an exorbitantly-priced tree from him, and I could continue to enjoy the view from my window undisturbed.

The reader might object that wealthy countries would not extend market access to poorer countries unilaterally. Now, whether they would of course, is an empirical question, albeit one that would require some counterfactual analysis. But the claim that richer countries would extend some benefits to poorer countries (particularly the poorest countries) even if they did not fully reciprocate is not so implausible, even on theoretical grounds. For one thing, the most-favoured-nation clause means that even if wealthy countries restricted reciprocal concessions to one another, poorer countries would gain incidentally. And if there are any countries for whom direct or indirect protection is less important for developmental reasons, it is wealthy countries. Infant industry and dynamic comparative advantage arguments apply to relatively poorer countries who are seeking to catch up. Finally, even to the extent that neoclassical economic prescriptions are wrong, they are held in most high regard amongst wealthy elites. And, of course, the neoclassical case for trade liberalisation is a unilateral one. It makes as much sense to level tariffs on imports as it does to brick-up your border crossings or throw rocks in your harbour.

Now suppose that more powerful members of the WTO *are* blackmailing weaker members of the group. Any “agreement” on reciprocal liberalisation that might be made in such a context is tainted. Thus, it may not merely be the case that, were my fair trade ideal to be applied, all states in our own world ought to gain equally from WTO agreements. Some may need to gain more than others to compensate for the wrong of blackmail that preceded the agreement. Treaty gains are to be assessed, in other words, relative to how well off each country would be if every state adopted that trade policy that was in its best interest in the world of protectionist states—not what each state would adopt purely in order to extract some benefit that it would not be possible to extract in the absence of the potential for diplomatic contact between governments.

Notice that non-members of the WTO might be subject to blackmail too. Suppose that none of the current non-members of the organisation were a realistic prospect for membership of the WTO, nor could it be foreseen that they ever would be. Further suppose that, if this was the case, some or all of the members of the WTO would extend to these non-members concessions that, in our own world, they restrict to other members. Also suppose that the reason they restrict these concessions to other members is because they want to put pressure on these outside states to join the WTO, or because they want to have a good bargaining position when it comes to accession negotiations, or because they fear that more powerful actors in the WTO have interests in these things. If this is the case, then non-members of the WTO certainly have a right to feel unfairly treated. And if the WTO is actively seeking their accession, then they are actually subject to blackmail. This is true, it should be remembered, even if these non-members benefit from the private ties of trade their citizens have with citizens of WTO members, in the sense that they would be worse as a whole if suddenly all WTO markets were barred to them. Remember the

example I gave in the previous chapter of blackmail in a relationship that was mutually beneficial overall (this was the example in which my neighbour threatened to obscure my view by planting a tree).

Blackmail is normally wrong regardless of the power resources that it marshals. But it is worth pointing out that as the WTO—and coalitions within that body—have become larger and larger, encompassing a greater and greater share of world markets, the power at their disposal to blackmail has also been magnified. When one country threatens a dependent society in the world of bargaining states with an adverse adjustment to its trade policy, or offers to adjust its trade policy (in a way that would be in its interest regardless) only if that society reciprocates, it cannot afford to be indifferent to such a move. After all, to be dependent is precisely to be unable to safely ignore the strategic moves on the part of some other party, or so I have defined it here. To be dependent is not to be able to costlessly exit a relationship, whether that relationship is cooperative one or not. But it is worth noting that there is no *pure* dependence in the world of (bilateral) bargaining states. There is always some room to shift trade ties, or indeed treaty ties, to some other party.

Picture a world, however, in which every country but one is a member of the WTO (we will be at this point soon). Or picture the relationship between one member of the WTO and the remaining members as a collective, in circumstances where each and every country in the world is a member. There is obviously tremendous power for blackmail here. Indeed, it seems as if it might be possible for powerful members and coalitions in the WTO to blackmail others without even thinking about it. Consider the “take-it-or-leave-it” approach to decision-making in the WTO that has only recently begun to break down. Under this format, powerful interests determined the nature of the bargain in exclusive “green room” negotiations, which was then

offered to the membership as a *fait accompli*. The WTO sometimes defends itself by claiming that it rules by consensus, but in the context of this decision-making format it is effectively rule-by-veto. Now, for a small or poor country to exercise its veto in this context is for it to put itself in a very vulnerable position. Even if the WTO might not have a specified process for expelling members, this is the ultimate penalty, at least in theory. And states possess other means to threaten dissenters outside the domain of trade.

Now, the reader might object that the standard I am advancing here would prohibit eminently reasonable action against free-riders in a cooperative scheme. (For free-riders are harmless parasites when considered individually. They are only harmful as a critical mass). If it would be wrong for the WTO to withhold or threaten to withhold concessions from some single economy unless that single economy itself made some concession, merely because it would not cost all other members of the WTO anything to do so—or because those concessions would be extended regardless if the government of that country were “paralysed”—then the WTO can do *nothing* to get any single member of the scheme to make a contribution. This would be rather odd, because it is often thought that *coercion* (not merely blackmail) would be justified in order to get actors to abide by the principle of fair play.¹⁰ And if the WTO or coalitions within it refrained from acting in this way with respect to *each and every member*, then the cooperative scheme that is the WTO would break down.

But this is not my intention. I think if *would* be acceptable to take action against free-riders. Nevertheless, not everyone who would receive market-access concessions for nothing if their government was paralysed in a WTO-dominated world can be counted a free-rider. Countries like this that would prefer that “free-riding” (putative or actual) reach a critical mass—and that cooperation in the WTO break down—rather than have to make a concession

¹⁰ This principle’s formative statements are in Hart (1955, p. 185) and Rawls (1964, pp. 9–10).

themselves cannot be counted as free-riders.¹¹ Non-members of the organisation might fall in this category, although not necessarily. If it is thought that, contrary to these countries' expectations, the trade regime that would likely replace the WTO would be even worse for these countries, it is still indisputable that no country can be alleged to be a free-rider that would be better off in the world of protectionist states, regardless of how much market access they might appear to be granted under the WTO.

Also, I don't wish to argue that blackmail is *always* wrong. Indeed, I think that blackmail might be justified just as long as it is necessary to more equitably distribute treaty gains (a departure into non-ideal theory, I grant you). One of the potential benefits of the WTO—a potential that has increasingly been taken advantage of—is that it provides a space in which poor countries might form a united front in their negotiations with rich countries. For such a coalition to threaten to withhold concessions from rich countries that it would otherwise be in its interest to extend is not wrong as long as it aims towards a more equitable division of the gains of treaty across signatory societies. Indeed, if it is recognised that treaty gains might be inequitable distributed, then a party that gets “something for nothing” is only a free-rider to the extent that such gains are already equitably distributed. And getting “something for nothing” might be required in order to achieve equity.

III. Exploitation in Treaty and Accession

In the previous chapter I argued that the net-gains of treaty in bilateral agreement ought to be *equally distributed*, unless some special reason (such as the impoverishment of one party's citizens) justified a departure from equality. I further argued that the appropriate baseline from

¹¹ This seems to be why “acceptance” of benefits, not merely receive of them, is required for an obligation of fair play to be established—Simmons (1979, pp. 132–135).

which to assess how much any party would benefit from a trade agreement under a given set of terms is how well off that country would be were the potential for diplomatic contact between societies an impossibility (a non-cooperative context in international relations, to use the language of game theory). The best alternative set of terms that a state might be able to arrive at with some other society (without violating their negative rights) is not the right baseline. This is because if it were, and that state *did* opt for that alternative treaty, we wouldn't be able to say that that state benefited *at all*, which confounds ordinary usage as well as common sense. Indeed, we might even have to say that that state was *harmed*, despite it being better off than it would have been if no treaty had been signed at all.

Now, merely because more than one society is party to a trade deal is no reason to think that some parties to that deal should gain more than others. Picture a group of states in the world of coordinated bargaining uniting together to advance their common interests. Some might have had advantages to begin with—in the sense that they would have been better off than others in the world of protectionist states, perhaps because they would have been more trade-integrated (interpersonally) than others—but it is unclear why this ought to be relevant. It would certainly be objectionable to use the greater credibility of a threat to exit negotiations (on the part of countries that would be better off than others if the negotiations failed, although still worse off than if an agreement was reached on any terms) to wrestle a greater share of treaty gains.

That the gains of treaty ought to be equally distributed bears both on what existing members of the a coordinated agreement are entitled to, as well as what prospective admits and countries currently negotiating accession ought to receive. Members of the WTO, for instance, must receive an equal share of the net-gains of the treaties that that organisation administers (overall, if not in each separately) and be given equal effective voice in determining what would

constitute an equal division of those gains, at least when negotiations next take place. As such, the WTO is not permitted to offer an outsider admission terms that would ultimately entail that admit standing to gain less than this once the cost of admission concessions is factored into those gains (in addition to the cost of liberalisation-concessions required under WTO treaties), even if an outsider would voluntarily assent to terms less generous than this.

Consider what this entails for potential WTO members who stand, were they admitted without any strings attached, to contribute to the treaty surplus more than what currently constitutes an equal share. Consider, in other words, a case in which there are increasing (treaty-gain) returns to scale in membership. In such a case, a potential admit should not be charged *any* additional price—i.e. a cost beyond a promise to abide by what WTO treaties already require. Unfortunately, there is some empirical evidence that the inverse is the case, at least if we take economic welfare as an approximate proxy. The more a prospective-admit to the WTO stands to benefit existing members, the more likely it is that *extra* concessions will be demanded of it in accession negotiations.¹²

There is, of course, an additional case to consider. What are we to say in circumstances where a prospective admit would increase the treaty gains accruing across the WTO on aggregate, but, in the absence of extra strings attached, would not contribute enough such that, once these gains were equally divided, each and every other existing member would be better off? What are we to say, in other words, when there are decreasing (treaty-) returns to scale in membership? I have already implied that, normally speaking, it is not impermissible for parties to a coordinated trade agreement to deny admission to an outside party, if, were that party admitted, avoiding exploiting that party would necessitate all other members being worse off, at least as long as duties of beneficence to those in absolute need are fulfilled. It seems a logical

¹² Pelc (2011).

extension, therefore, to say that *is* permissible for members of a coordinated trade agreement to demand some *additional* concessions on the part of a prospective member—if it is, indeed, to join—if this is what is necessary to ensure that pre-existing members do not lose out once treaty gains have been equitably distributed. What this seems to mean for the WTO is that unless fulfilling the demands of beneficence that fall on the affluent within the WTO is best fulfilled by extending admissions offers to outsiders no-strings-attached, it is permissible to demand extra concessions by way of admittance. This is only in an ideal world, however. If outside states have been exploited in their bilateral treaty relations with WTO members, or subject to wrongful disadvantaging, then costless admittance may be needed by way of compensation.

IV. Coercion and Distributive Justice

The claim that it is collective or institutional coercion that generates distributive duties of a more-or-less egalitarian kind (henceforth “the coercive claim”)—owed by those who both author and are governed by that coercion (at least in a democracy) to one another, but neither incumbent on, nor owed to, others—is common in the global justice literature. Indeed both statist, who restrict the scope of these duties to the co-citizen relationship, and cosmopolitans, who argue that duties of these kind are global in scope, have utilised this claim in relation to our own world.

In particular, it is often claimed that coercion grounds a requirement that no person subject to that coercion face worse prospects than another person subject to the same coercion merely as a consequence of an accident of birth (at least unless they would be better off—in absolute terms—otherwise, as under the difference principle). So, on the statist version of this argument, it is unjust that the life-prospects of equally talented and motivated (at birth) Americans are unequal only because all Americans are subject to the same coercively-enforced

legal order. An equivalent inequality across borders can be neither just nor unjust because, while there might be such a thing as international law, there is no comprehensive legal order globally. States both author whatever international law there is—which is limited in terms of the matters it addresses—and enforce it (to the extent that they see fit).

Nevertheless, whether in statist or cosmopolitan form, this claim is difficult to fathom. This is for several reasons. First, there is no agreement on what constitutes that baseline which would enable us to distinguish a conditional proposal that is wrongful—a *coercive* threat, on a moralised account of “coercion”—from a permissible (or even obligatory) such proposal. In ordinary language, we often used “coercion” in a non-moralised sense, with the *status quo ex ante*—or state of affairs absent the encounter with a putative coercer—as the baseline. On this account, coercive encounters are synonymous with those in which the actor subject to coercion is made worse off, even if he or she is reserved some latitude for choice. Thus, the thief who steals my antique watch at the point of a knife coerces me, but the merchant who purchases antique watches for below-market prices from needy petitioners who are desperate to sell does not. And the employer who succeeds in getting an employee to do X or Y by threatening the sack coerces, but the employer who only agrees to hire someone on condition they do X or Y does not. A non-moralised account enables us to speak of coercion as being either wrongful or permissible. So the thief’s taking of my watch is wrong, but the government’s taking of an equivalent value in income tax (backed ultimately by the threat of prison, say) is not. Or coercing an employee into a sexual relationship (via a threat to fire) is wrong, but coercing another employee into acting in a professional manner (via exactly the same threat) is not.

However, the disagreement that really matters here is not about what baseline to employ when using “coercion” in a non-moralised sense. Rather, it is about what baseline to employ

when utilising “coercion” in a *moralised* sense—when the term is reserved only for those scenarios entailing harm in which the actor so harmed had their rights violated, and is expanded to cover, additionally, some scenarios in which benefits are withheld (namely those scenarios in which the benefits were owed as a matter of positive right). Thus, the libertarian might argue that the government’s taking of income tax (at least for redistributive purposes) *is* wrong, and it is on that account, rather than any other, that it should be labelled “coercive”. Or the egalitarian might argue that no one should have to work more than X hours a week, such that demanding someone do so on pain of lacking a job is coercive, even if they would be better off working on those terms than unemployed.

In other words, in debates over global distributive justice—amongst professional philosophers and more widely—there is such disagreement about what rights people have—whether on a natural basis and/or engendered in their relations—that it is not clear what we are to count as coercion (in a moralised sense, such that what is deemed coercive is necessarily wrong) and what we aren’t. Are the penalties reserved for putative wrongdoers under the WTO’s dispute settlement mechanism—and the ultimate penalty of expulsion from the organisation (that exists at least in theory)—penalties that help define a picture that is coercive (i.e. wrong) overall, or are they not? Is the assent of developing countries to WTO agreements akin to an employee consenting to sex to avoid the sack, or an employee consenting to behave in a professional manner? Indeed, is remaining outside of the WTO—in the case of current non-members—such a poor option that charging some price in admission negotiations is coercive? Is this picture, in other words, akin to that describe above in which a watch-merchant takes advantage of the need of petitioners to part them from their beloved heirlooms? Or is it, rather, analogous to an ordinary market exchange, which most people would not find morally problematic? Whether

one maintains that there is coercion occurring or not, in other words, will depend to a considerable degree—if not entirely—on what view of global distributive justice one *already subscribes to*.

However, the coercive claim is not merely difficult to fathom because there is normative disagreement about what constitutes coercion. A more significant barrier to making sense of this claim is the following: on a moralised account of coercion—whatever that account’s precise form, and there are obviously going to be competing accounts—*coercion is always wrong*. In ideal theory at least, there should be no coercion. Thus, to speak of what duties coercion engenders does not make any sense, for a defensible ideal would not reserve a space for coercion. To speak of permissible coercion—even conditionally permissible coercion—is to commit a category error. Further, for the purposes of non-ideal theory, coercion is only ever justified to prevent or rectify a wrong (this is a case in which, it is thought, two wrongs do make a right, or else we slip into a non-moralised sense of coercion again). So, if someone is vulnerable to being robbed, they (or the state on their behalf) are entitled to use (certain) threats to prevent this, or to recover property if a robbery does occur.

Of course, coercion is likely to play a role in any plausible egalitarian theory of distributive justice. But it seems to make most sense to say that coercion (in a non-moralised sense, again) may or should be used to ensure that people’s *existing* rights are respected.¹³ Why should we think that the coercive enforcement of pre-existing obligations generates some *new* obligations, which, presumably, should be enforced in addition to those pre-existing obligations? As, according to the coercive claim, coercion grounds egalitarian duties of distributive justice, this question can be thought of as implying something like the following: if a libertarian account of our distributive duties would be adequate for a state of nature (in which

¹³ Pevnick (2008).

only virtuous individuals could be relied upon to fulfil their duties, but others might not fulfil them) why is it not adequate for us given that we live under a political order that can, to some degree, enforce duty-fulfilment? Why do I owe my compatriots more—on the statist version of the coercive claim that is—than merely adherence to and support for a libertarian legal regime? Why support “redistributive” taxation, for instance?

Third, the coercive claim is difficult to fathom to the extent that there is, implicitly at least, disagreement about what conditions would need to pertain for it to make sense for us to say that someone faced with a certain set of conditional options is being coerced, rather than not. When asked to provide examples of coercion, philosophers often turn to cases involving individuals—usually individuals encountering one another against the backdrop, presumably, of some political order. However, the coercive claim references coercion *by* a political order. Whether an order can be wrongfully coercive, despite the fact that no particular interaction within that order is wrongfully coercive, is obviously a matter over which political philosophers disagree. Libertarians argue that it cannot, while egalitarians from Rawlsians to Marxists argue that it can. But the disagreement at stake here is different: the question is what constitutes a political order carrying a coercive capacity? For the coercive claim to make any sense, not just any background conditions constitute such an order.

For illustration, consider the following example. Picture again a world of autarkies, in which the globe is divided into a number of independent states, each economically autarkic and exercising exclusive political sovereignty within its borders. Now imagine that identically resourced and governed societies in this world are unequally wealthy, say as a legacy of decisions made by past generations in each of these societies respectively. Or imagine that identically endowed and motivated individuals are unequally wealthy as a consequence of in

which society they happen to have been born. Is the coercive claim applicable to this world—justifying something being done for societies or persons arbitrarily worse off in this world—or is it not? Clearly, there are no political or legal ties between countries or across borders in this world. This seems to point to the coercive claim being inapplicable. Yet despite the absence of such ties, there *is* a global political *arrangement* (a different sense of “order”): namely one in which there are multiple autarkic states and any arbitrary inequalities that might arise are left unaddressed. And, crucially, there is a collective capacity (at least if we allow for the possibility of cross-border ties being established) to change this arrangement. Does this capacity mean that the coercive claim is applicable even in a world of autarkies? Is there, in other words, a political obligation incumbent on societies advantaged under this arrangement to push for the establishment of a global politico-legal system to address arbitrary inequalities, even if such a system does not yet exist?

Yet despite these interpretive problems with the coercive claim in the abstract, which undermine its effectiveness in grounding an all-things-considered view of global distributive justice (whether statist or cosmopolitan in form), a particular variant of this claim—which obviously must take a series of stands on the disputed matters raised above—might be thought to do some work in articulating a defensible fair trade ideal. The general form of this claim is that when a particular distribution of gains across parties to a cooperative project is collectively *enforced*—rather than all parties being *trusted* to play the role that will ensure that the cooperative gains are equally distributed—a greater than equal share may need to accrue to those parties who would end up worse off overall (i.e. worse off once all the benefits and burdens they bear—not merely those arising from that particular cooperative project—are taken into consideration), and not merely on the grounds of beneficence. How much more, exactly,

depends on what is necessary to ensure that better off members of the project have good reason to take it that worse off members can generally be relied upon to play the role assigned them by the terms of that project—out of their sense of justice—and will not be tempted to snatch a greater share of these gains in spite of this sense. Returns of cooperative projects should be distributed such that, in other words, threatened punishments serve—with respect to parties motivated by duty at least—a signalling rather than deterrent role. This claim is akin, in some respects, to Rawls’s argument that merely because the gains of social cooperation are divided in a putatively fair manner—namely in that way that persons behind a veil of ignorance would choose—is no guarantee that this division is just all-things-considered. For the terms of social cooperation must also be such as to secure “stability”. Namely real persons, rather than merely hypothetical ones, must be able to live in accordance with them, at least to the extent that they are motivated by a sense of justice.

But why think that the gains of cooperation should be divided in any other way than equally? If a party to some cooperative project is tempted to snatch more than an equal share as a consequence of how well-off this share would leave him or her overall—by free-riding say—why not think that this necessarily reflects anything more than an inadequate sense of justice? Yet the claim I seek to make is not that acting on any such temptation would be justified. Indeed, my claim is not grounded on the intrinsic merit of some particular distribution of goods, but the *instrumental* value of some distribution in ensuring *equality of standing or status*. Specifically, I would posit that equality of standing within a cooperative project requires that the more advantaged not have reason to *think* that the worse off are only abiding by the terms of the project for fear of the penalties they will incur if they do not. For only when the more advantaged have such a reason can they *trust* the worse off. A circumstance in which one

cannot be sure that one's partner in cooperation is abiding by its terms out of a sense of justice or from fear of resultant penalties is an impediment to equality of standing in two ways. First, in the absence of trust, it is difficult to take one's partner's input into democratic deliberation seriously. In other words, in the absence of a division of gains adequate to secure trust, there is no way of telling if a view one's partner in cooperation might offer on what would constitute an equal distribution of the gains of social cooperation is made in good faith, or in an attempt to avoid being so badly off overall.

Second, without trust it is difficult to hold one's cooperative partner in high regard. Sadly perhaps, those who are worse off economically tend to be looked down upon. But at least in the absence of enforcement of the terms of cooperation, those who are worse off can hold their heads high on the basis that they could get more by cheating, but decline to do so. And those who have more might ask themselves "if I was worse off, I would if I could exercise such admirable self-restraint". But when the terms of cooperation are *enforced*—penalties are laid down for failing to abide by these terms—the worse-off lose this opportunity to demonstrate their good will.

This second point—that a system of legal penalties deprives the worse off of an opportunity for virtue, and therefore, potentially, of equal standing—can be revealingly contrasted with a seemingly contrary claim made by contemporary (neo-Roman) republicans, such as Philip Pettit and Frank Lovett. These scholars, and their historical precursors, have claimed that legal enforcement is of value quite apart from its effects—in terms of ensuring, for example, that people get their fair share of cooperative gains—because it is important for securing equal standing. The argument here is that receiving the share of social goods to which one is otherwise entitled is necessary for justice, but not in itself sufficient. As long as the weak

have to rely on the forbearance of the powerful to secure the share to which they are entitled, an unacceptable status inequality endures.¹⁴ For a political order that allows some persons such scope in exercising their private will that others live at their mercy is not one that can plausibly claim to reflect the fact that persons as equals, even if everyone gets an equal share of the pie. It is not enough, in other words, that people be guaranteed what they are entitled to *statistically*. For it also matters *how* they are statistically guaranteed what they are entitled to. The political order should be one in which no person's private will is privileged over another person's, and the rule-of-law is vital in this endeavour.

The fair trade ideal I develop in this dissertation obviously shares much in common with the republican take on distributive justice. Most obviously, the ideal I develop is, like the republican idea, a relational one. I am not merely concerned with how well off people are, but with the nature of the social, economic, and political processes and practices that determine how well off they are. Indeed, to the extent that I advocate legal constraints to ensure that what people and societies are owed—in particular to ensure that they are not exploited in their cooperative relations—my ideal is directly a republican one. Yet, in addition, I recognise that legal enforcement has the potential not only to advance equality of status, but to undermine it. Consider some typical republican policy proposals. Republicans argue that not only are the needy owed assistance, but they are owed a legal guarantee of provision. In the absence of a such a guarantee, the poor are degraded even if their material needs are provided for. For without such a guarantee, the political order is not one that expresses the poor's civic equality, but rather one that implies that what the poor receive is at the behest of the wealthy. Or republicans argue for legislated minimum wages and conditions, or the institutionalisation of collective bargaining, such that workers' conditions are not merely dictated by capitalists. In

¹⁴ Pettit (1997); Lovett (2010).

advancing proposals such as these, republicans are primarily concerned to limit the sway of the wealthy and propertied. But there is also reason to be concerned with what legal restrictions on the *poor and property-less* implies for equality of status. My argument is, essentially, that legal restraints on the poor threaten to undermine their status, through the two avenues discussed above. I do not mean to imply, however, that it would be wrong to politically authorise punishments for the violation of duty that apply equally to the rich and the poor. Indeed, it is hard to see how a legal order that failed to do so could embody equality of status either. Rather, I am arguing that, given a schedule of punishments legislated for failures to adhere to duty, economic inequality should not be so great that equality of status can no longer be maintained.

To be clear, let me recast this claim and its basis directly in terms of what it implies for coordinated trade treaties, using the WTO for illustration. What I have already said in this chapter implies that members of the WTO should seek to ensure that any new agreement they enter into equally divides the gains of treaty across parties to that agreement—even once the demands of beneficence are satisfied and even if no treaty-dependent country or trade-dependent person (within or without the WTO) would be exploitatively disadvantaged or net-harmed if they were not. This is because, were the gains of treaty unequally divided, those WTO-members who benefited less would be wrongfully exploited, even if their governments assent to that agreement, perhaps because their society would be worse off than others if no agreement was reached at all.

Now, according to the argument I have made thus far in this dissertation, the gains of treaty would have to be equally divided *even if the WTO had no established mechanism for enforcing cooperation*. Say that the WTO did not monitor its member-states in an attempt to ensure that they abided by their treaty commitments, and there was no dispute settlement mechanism to adjudicate cases of alleged cheating. Rather, countries were left to their own

devices, either to fulfil their commitments out of a sense of justice or due to a fear of bilateral retaliation. It doesn't seem that merely because there is no "coercion" here, that a departure from equality of gain would be justified. For cooperation alone grounds an obligation to equally distribute treaty gains. Nevertheless, if the coercive claim is to do any work here, some parties to an international agreement might be able to justifiably claim a greater than equal share when agreements simultaneously specify—as WTO agreements do—how putative wrongdoings are to be judged, and what penalties will be incurred for wrongdoing. If they were not differentially treated, then trust among members of the WTO would suffer, as would the standing and voice of poorer members.

V. Common Criticisms of the WTO

As I discussed more extensively in the introduction, the purpose of this project is to develop a moral ideal that would enable us to assess trade and trade relations in our own world, not to critique trade and trade relations in our own world by contrasting the current state of affairs with some ideal that must necessarily remain opaque. It is also the case that the current chapter is intended to provide guidance with respect to *all* coordinated trade agreements, not merely the largest and most importance of these, which are governed by the WTO. Nevertheless, I want to conclude by saying a few words about some common criticisms that have been levelled against the WTO to make clear the need for an explicit fair trade ideal. Without such an ideal we are not well placed to assess the merits of these criticisms, fine-tune those that have some basis, or make those additional moral criticisms that are necessary.

One criticism that has been levelled at the WTO is that it has overstepped its legitimate function. There are now WTO agreements that cover much more than border measures (like

tariffs), requiring concessions in the realm of industrial policy, services, and, most controversially, intellectual property (under the Agreement on Trade-Related Intellectual Property Rights—TRIPS). But in the absence of some reason to think that, in a world without the WTO, it would be wrong for countries to arrive at agreements covering anything but tariffs, this criticism is shaky. Presumably, there is no policy *domain* that it is necessarily wrong for states to seek to reach agreement in, distributive concerns domestically and internationally to one side.

More plausible versions of this objection can be formulated, however, once an explicit ideal has been made articulated. The TRIPS agreement, for instance, might be criticised on several grounds developed in this dissertation. To the extent that the ability of poor countries to manufacture generic copies of drugs is vital to tackling diseases like AIDS, it can be argued that TRIPS violates duties of beneficence that the global affluent owe to the needy. Indeed, to the extent that these drugs were developed with a view to taking advantage of rich-world markets only, and absent a reason to think that further pharmaceutical research will be stunted without wider markets, repealing TRIPS represents an entirely costless way to further need alleviation, and would be *demande*d by any plausible principle of beneficence, including the Principle of Sympathy. Or it can be argued that the WTO *blackmailed* developing countries into accepting TRIPS by threatening to deny them market concessions that would have been extended to them anyway if intellectual property had been off the bargaining table. At the very least, it can be claimed that by bundling TRIPS into the Uruguay round—a treaty that is of no benefit to poorer countries in and of itself—rich countries *exploited* poor countries overall, providing them with an inequitable share of the gains of treaty. To be sure, to successfully advance one of these

arguments would require the right sort of empirical evidence. But the normative ideal I have developed helps us to determine what sort of empirical evidence is important.

Another criticism that is levelled at the WTO is that it is biased towards the market as a mode of economic organisation, interpreting any government measure that might limit trade, and thereby the scope of the market, as “protectionism”, even when the motivation behind that measure was not trade-related. It is not just that the treaties that the WTO administers now cover more than border measures. The allegation is that the WTO has interpreted national measures that protect workers, animals, and the environment in such a way as to undermine their effectiveness.¹⁵ The classic example is the dispute in the 1990s between the US and Mexico over tuna imports. The US sought to restrict imports of tuna that were caught using methods that result in the deaths of dolphins. Mexico alleged that the US was unfairly limiting trade. In deciding the case, the WTO ruled that countries may not discriminate on the basis of the production *process*, as this would infringe on the sovereignty of producer-nations. Countries may only discriminate on the basis of the nature of the *product*. (For example, a member of the WTO could legally ban imports of toys painted with lead paint, even if no other country had such a prohibition).

Now, clearly what we are to make of this criticism depends on the particular moral ideal that we subscribe to. Peter Singer’s position is shaped by his utilitarianism and his concern for the welfare of animals. Presumably, he would think that the case should be decided in whatever way happened to ensure that animals were better protected. But the WTO decided the case in terms of national sovereignty. Yet even if we were to think in terms of the rights and duties of sovereignty rather than the aggregate good, there would be arguments on both sides. On the one hand, it could be argued that the US *would* be exercising extra-territorial jurisdiction if Mexican

¹⁵ Singer (2002, pp. 57–70).

fisherman were induced to adopt a costly change in their production technique. But from the alternative point of view it could be argued that, in fact, the ruling threatened to undermine *US* sovereignty. As long as government regulations result in costs for domestic producers, those producers will not be able to survive even in the domestic market as long as foreign competitors supplying imports are not held to the same standard.

An argument like this is most often made in relation to worker's rights. For the US to ban imports that were produced by foreigners working in conditions, and receiving wages, that would be substandard and illegal in the United States would constitute an illegal barrier to trade under current international trade law. But is it obviously the case that US producers who must bear the cost of upholding American law will have trouble competing with overseas producers who need not bear this burden. The claim is then that globalising markets will lead to a "race to the bottom" in terms of labour standards.

Now, clearly what we are to say about objections such as these is going to depend heavily on what we take the correct fair trade ideal to be. Here, I offer a thought on the US–Mexico dispute in terms of the ideal I have developed in this dissertation. First and foremost, for Mexican fisherman to have to bear some additional cost that they would not have to bear if they did not trade with the US is no reason to think that that the US is encroaching on anyone's sovereignty. What matters is not whether any additional cost must be born, but whether the gains of exchange are equitably distributed *net costs*. On the other hand, if the US regulation on nets was such that it left Mexican fisherman worse off than they would be in a world of protectionist states (in which there is no potential for diplomatic contact between societies); or if a threat to disadvantage them in this way lead to the gains of exchange being inequitably distributed despite Mexican fisherman ultimately being better off than they would be in a world

of protectionist states, then this is a different matter. But clearly, even in a world of protectionist states the US would adopt the relevant regulation on tuna nets—and would bar imports of fish caught using the illegal nets to the extent that this would dis-incentive their use—so it can't be construed as merely an attempt to manipulate Mexico's environmental policy.

Finally, as noted in the introduction, one of the criticisms that is levelled at the World Trade Organization most frequently is that it suffers from a “democratic deficit”. Now, under any plausible (non-moralised) definition of democracy this is likely to be true. First, many members of the WTO are not democracies, so it can't be claimed that the citizens of these countries have even indirect voice. Second, even citizens of democracies are only represented third-hand. Treaty negotiators are neither elected representatives, nor governments, but bureaucrats selected by governments. Third, and as I have mentioned in passing previously, until very recently most of the big questions at WTO negotiations were decided by the most powerful players (the largest economies) in exclusive and secret “green room” sessions. Other members had very limited deliberative input, and obviously faced severe pressure not to attempt to exercise their veto when presented with the outcome of these sessions.

But merely pointing out these facts tells us nothing about why we should care. Maybe the WTO isn't “democratic” in these senses, but many spheres of life are not. Why is it wrong, unjust, or unfair that the WTO is not democratic? The virtue of this project is that it gives us reasons to see why the WTO *ought* to be more democratic. Until weaker states are given greater voice, countries will still proceed as if utilising one's maximum bargaining advantage without violating anyone's negative rights was legitimate. And only when weaker states genuinely participate in collective deliberations can we be sure that trade and treaty gains will be equally divided.

Conclusion

It might not seem so controversial to think that in a world of separate societies—in which each is economically autarkic—economic obligations with distributive import across borders would be limited. Yet much recent scholarship in political philosophy has implied the opposite. Natural-right luck-egalitarians and sympathetic others have argued that as nationality is as unchosen-a-trait as race or gender, it ought not to skew what one should expect to reap under the global order—regardless of how persons and societies stand with respect to one another under that order already, or might permissibly stand. Even scholars sympathetic to the view that greater natural talent entitles one to greater rewards—regardless of how “arbitrary” that talent might be (in the sense of being unchosen)—imply a position that disputes that nationality can legitimately figure into what one ought to expect to reap under the global economic order. After all, while national-culture might differentially shape what we can expect to be able to offer others on the market, any inequality in our natural capacity to carry any given culture does not correlate with our society of birth.

Even cosmopolitans who see themselves as relationally sensitive—and who argue that an egalitarian distribution is demanded only given the nature of the global “basic structure”—advance arguments that would imply the existence of such a structure even if every society in the world was economically self-contained. Remember that the option sets faced by both individuals and societies in a world of autarkies would be equally as “unavoidable” or “inescapable” as they are in our own world. Indeed, the circumstances that face us remain inescapable, regardless of how the world is ordered, just so long as there is not an infinite number of alternative universes to which persons or states in our own world can costlessly escape.

From perspectives such as these, trade and the political order in which trade takes place are to be judged according to the extent to which they advance the distributive pattern that justice would demand even in a world in which every society was autarkic. Not only does this perspective seem implausible when we reflect on a world that is not as deeply integrated as our own, but it fails to provide us with the right conceptual tools to talk about the nature and basis of the obligations that are owed across borders in our own world. As I noted in the introduction, until quite recently almost all scholars of global distributive ethics either argued that the global poor were owed *assistance* (with a key point of contention being why we should think that aid is obligatory rather than merely supererogatory) or *rectification* (for the coercive imposition of a harmful economic arrangement globally). Yet between these two poles lies a third alternative. In developing a (trade-) relational fair trade ideal, I have not only been able to show how it is that what is owed across international borders has expanded as the world has trade-integrated, but opened a space for this third alternative while parsing out the truth in both beneficence and rectification talk.

If beneficence is, in the first instance, a natural rather than relational obligation, it is simply not possible to determine what range of duties in our own world might be accounted for by beneficence without picturing—to the extent that this is possible—a world in which cross-border and international relations are absent. Establishing what beneficence demands, in other words, necessarily requires reflecting on something like the world of autarkies. And if we want to know if anything more might ever be owed than that which would be owed on the basis of beneficence alone, there is no better way to establish what is owed and its basis than by contrasting a world of autarkies with more integrated worlds, hypothetical or real. Finally, to consider if there might be some third basis or range of bases for distributive demands besides the

need of others and *our harming of them*, we must picture circumstances in which harms—or at least those things most commonly thought to constitute harms—are either impossible or absent. This is what I have done in this dissertation. No hypothetical world I described in previous chapters allowed for direct harms or externalities that might arise in the context of real-world trade relations. Yet it seemed clear to me, in reflecting on these hypothetical worlds, that there were obligations beyond mere beneficence grounded on distinct dimensions of trade-integration.

First, interpersonal exchange across borders—trade proper—grounds an obligation to equitably distribute the gains of exchange. If this obligation is not fulfilled, the relevant wrong is *exploitation*. It is possible to exploit someone without harming them. Indeed, it is possible to exploit someone even if you benefit them, just so long as you do not benefit them sufficiently to equitably distribute the gains of trade. Now, one might accept that trade grounds an obligation to avoid exploitation, while maintaining that fulfilling this obligation would not necessitate redistribution in our own world. After all, it might be that the right account of equitable division of the gains of trade implies that the global market price for any given good necessarily reflects an equitable division. Yet in Chapter 2 I provided some reason for us to doubt this. For one thing, actual reserve prices—those terms on which a potential party to trade would not consent to exchange given their alternative trade possibilities in a liberal order, at least as long as they behave in the mode of *homo economicus*—are not an adequate baseline from which to assess how much that actor would net-gain from exchange on some more beneficial terms. This is because actual reserve prices usually reflect alternative possibilities *for being benefited* (by others), not how well of one would be absent the benefit in question.

Second, the capacity for a society to determine a trade policy—and to change that policy given a pattern of trade ties to foreigners that is already established—ground both extra-

beneficent obligations incumbent on non-traders, and extra-beneficent duties owed to trade-dependents. Even if it is not wrong for a society to democratically determine how much it wishes to be trade-interdependent per se, non-trading citizens are implicated in whatever exploitation occurs when their country's trade policy impacts the terms of trade—affecting not merely the number of exchanges with foreigners that are concluded, but the terms of those exchanges. Further, given the vulnerability of foreigners who are dependent on their particular trade ties, those responsible for moulding a state's trade policy must not wrongfully disadvantage foreigners via a *change* in that policy. This is an obligation not to “harm” in one sense, but not all disadvantagings of foreigners should be counted as wrongful harms. Only when trade-dependents would be left worse off than they would have been if our society had never been open to trade, or are exploitatively disadvantaged, has a wrong been committed.

Third, when states bargain with one another over the shape of trade policy, obligations beyond beneficence are generated even to foreigners who are not themselves direct trade-participants. In ideal circumstances at least, states must not use their capacity to mould their trade policy as a means to blackmail other states. And when states are party to trade agreements—even agreements that do not occur against a backdrop of blackmail and under which the gains of private exchange would be equitably distributed—they acquire an obligation to ensure that *treaty gains* are equitably distributed too. Because trade policy has implications for the macro-structure of an economy—particularly a country's specialisation profile, with attendant distributive and developmental implications—it is rightly regarded as part of a society's basic structure, not merely as that part of public policy that concerns the interests of traders only. As such, treaty gains are properly thought of as distributed across *societies*, rather than across trade-participants only. In the non-ideal circumstances where prospective treaty

partners cannot be relied upon to fulfil *their* obligations to foreign dependents, there is even an extra-beneficent duty to foreigners who are neither tied to my society directly by trade, nor indirectly via a treaty with their government. Specifically, states ought not to induce a treaty partner to violate its obligations to trade-dependents by requiring such by way of treaty concession.

If each state and its share of the global economy were small, it might be that meeting many of the obligations summarised above would not be unduly burdensome. But when states coordinate their trade policies—with multiple states reaching agreements that entail limits on what further deals signatories might arrive at—it is all the easier for these obligations to be broken. Take the WTO and its most-favoured-nation provision. Including an MFN provision in a treaty would be unlikely to be problematic if that treaty was only concluded between two similarly structured states. Indeed, if it ensured against one party to that treaty from subsequently eroding the trade-policy concessions it was ostensibly offering in such a way as to, for example, net-harm or exploitative disadvantage trade-dependents, it would be ethically useful. But including such a measure in a near-comprehensive global treaty is potentially deleterious. First, restricting MFN-status to WTO members may be part of a picture that is overall one in which non-members are blackmailed into membership. Second, requiring all members of the WTO to extend any concessions made to non-members to all members may serve to decrease the bargaining leverage of outsiders by disincentivising such concessions. To the extent that this leaves them ill-placed to gain an equitable share of treaty gains even in non-WTO-treaties, this is problematic. Third, interpreting the MFN provision in such a way as to allow unequal concessions by good is consistent with an inequitable division of treaty gains

across countries within the WTO, even if it can be effectively argued that no WTO member is actually blackmailed.

Finally, it may well be that when cooperative commitments are enforced, in the sense that that failing to fulfil them is deterred by a specified legal penalty, rather than merely by the threat of bilateral retaliation or loss of reputation, those who are worse off overall are entitled to a greater share of the cooperative surplus than would otherwise be the case. Contemporary republicans remind us that equality of standing is undermined if people are not legally guaranteed what they are entitled to. As long as they have to rely on the forbearance of the advantaged, in other words, their political status is degraded. But law has a flip side too. Legally enforcing some division, rather than leaving it up to each and every particular actor to do what fairness requires of them, removes an opportunity from the less-advantaged to exhibit their goodwill and sense of justice. In the case of the world trade regime, for instance, it may well be that the fact of enforcement by the legal organisation that is the WTO grounds a requirement that developing countries not be so badly off overall that others cannot believe they have sufficient reason to abide by WTO rules. And it is impossible for developing countries to stand next to other societies as trustworthy partners and status equals in cooperation without a basis for this belief. If this is indeed the case, we do not merely have extra-beneficient obligations of *non-exploitation* in a trade-integrated world, but an additional obligation of a still more demanding kind.

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